Government of Kerala
1982



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SUPPLEMENTS

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PART I

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PART I

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GOVERNMENT OF KERALA

Abstract

PUBLIC SERVICES—INCENTIVE ALLOWANCE GRANTED TO ENGLISH TYPISTS IN SERVICE ON ACQUIRING QUALIFICATION IN MALAYALAM TYPEWRITING—ORDERS—EXTENDED TO CLERK-TYPIST/TYPIST-CLERKS

GENERAL ADMINISTRATION (SERVICES—D) DEPARTMENT

G.O.Ms.No. 6204/82/GAD. Dated, Trivandrum, 30th September 1982

Read :—1. G.O. Ms. No. 275/76/PD dated 7-8-1976

ORDER

In the G.O. read above, it was ordered that all English Typists in service who either acquire the qualification of Malayalam Typewriting, K.G.T.E. (Lower) or have acquired the qualification before their entry in service would be given an incentive allowance of Rs. 25 per month for a period of three years, provided they were recruited at a time when a pass in Malayalam Typrewriting was not a compulsory qualification for appointment as English Typists. However the above order has not been made applicable to the category of Clerk-Typist/Typist-Clerk though they possess both the qualifications for Clerks and for Typists (English).

2. Government are pleased to order that the incentive allowance of Rs. 25 p.m. will be given to those Typist Clerks/Clerk-Typists who have opted to continue as Typist and are included in the seniority list of Typists in terms of G. O. Ms 541/60/PD dated 16-8-1960, for a period of three years from the date of this G. O. provided they were recruited at a time when a pass in Malayalam Typrewriting was not essential for appointment as Clerk-Typist/Typist-Clerks.

By order of the Governor,
M. MOHANKUMAR,
Special Secretary to Government.

[P.T.O.]

To

All Heads of Departments and Offices.
All Departments (all Sections) of the Secretariat, including Law, Legislature & Finance Department.
The Secretary, Kerala Public Service Commission (with C.L.)
The Registrar of High Court Ernakulam ,,
The Registrar, Universities of Kerala/Cochin/Calicut ,,
The Registrar, Kerala Agricultural University, Mannuthy, Trichur ,,
The Account ant General (This order issues with the concurrence of Finance Department)
The Finance Department (Vide U.O. No. 74614/R1/81/Fin. dated 2-1982. ,,
The General Manager, K.S.R.T.C, Trivandrum ,,
The Secretary to Governor.
The General Administration (SC) Department.

———

Kerala Gazette No. 43 dated 2nd November 1982.
PART I

GOVERNMENT OF KERALA

Labour (A) Department

NOTIFICATION

G.O. (Rt.) No. 1049/82/LBR. *Dated, Trivandrum, 25th September 1982.*

The award of the Labour Court, Quilon in respect of the dispute between the Dairy Manager, Alleppey Milk Supply Scheme (Kerala Live-stock Development and Milk Marketing Board) Punnapra, Alleppey-4 and Sri K. Yohannan, Kankalivadakathil House, Kozhukalloor P.O., (via) Venmony, Pin. 689509, Chengannur Taluk received by Government on 13-8-1982 is hereby published under section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,

K. Sivadasan,

Deputy Secretary to Government.

In the Labour Court, Quilon

Saturday, the 3rd day of July, 1982

Present:

Shri T.V. Kunhahamed b.a., b.l.,

Presiding Officer

INDUSTRIAL DISPUTE No. 10/79

Between

The Dairy Manager, Alleppey Milk Supply Scheme (Kerala Live-stock Development and Milk Marketing Board), Punnapra, Alleppey-4

And

Shri K. Yohannan, Kankalivadakathil House, Kozhukalloor P.O., (Via) Venmony, Pin-689509, Chengannur Taluk

Representation:—

Sri S. Venkitasubramonia Ayyar, Advocate, Alleppey. —For *the Management*

AWARD

The issue referred for adjudication by the Government of Kerala as per G.O. (Rt.) No. 219/79/L&H dated 13-2-1979 is "Dismissal of Shri K. Yohannan".

2. The dismissed worker was working as a plant attender at the Mavelikara Chilling Plant of the Management. Subsequently he was transferred to the Alleppey Dairy as per an order dated 1-7-1976. Later on he was kept under suspension and finally he was dismissed. The charges levelled against the dismissed employee were that on the morning of 16th August 1976 at about 2.20 A.M. he had unauthorisedly re-entered the plant premises and two he had invited a woman to the plant premises and engaged in immoral acts and thereby Sri Yohannan had discredited the staff and institution. According to Sri Yohannan he was not guilty of the charges and he was dismissed by the management without holding a proper enquiry. According to the management, the enquiry held was perfectly valid and the dismissal was amply justified.

3. My learned predecessor considered the question whether the domestic enquiry was properly conducted and came to the conclusion, that since the statements of the witnesses were recorded before issuing the notice of enquiry, the enquiry was defective and therefore posted the case giving the management an opportunity to substantiate the allegations before this court.

4. M.Ws. 2 to 5 were examined to prove the charges against the accused employee. M.W.2, who was the plant attender had opened the gate between 2.15 and 2.30 A.M. for the purpose of taking milk for Town distribution. Along with others Sri. Yohannan was also seen in the van. The witness had described the Yohannan as "മരുന്നു കഴിച്ചു തിരിച്ചുവരാമെന്നു പറഞ്ഞ യോഹന്നാൻ". According to the witness Yohannan came back after 10 to15 minutes. About 10 minutes thereafter when the witness and Thankappan Pillai were walking, the witness saw Driver Kuttappan, a woman and Yohannan coming from the side of the guest room which was under construction. Kuttappan and the woman went out. They went out through an opening in the fence behind the plant. The witness questioned Yohannan about the persons who had run away. Yohannan told him that the woman was brought by Kuttappan, that he, Yohannan had abused him when they saw him they had run away. The witness woke up Ramachandran Nair and George Ambrose who were sleeping after their duty and informed them about what transpired. The witness stated in cross examination, that it was Yohannan who told him that he was going for taking medicine, that Yohannan himself opened the gate when coming back, that the gate was not kept locked and that the witness had asked Yohannan when he was coming back whether he had consumed the medicine.

5. Thankappan Pillai, another plant attender, was examined as M.W.3. The witness had seen three persons Kuttappan, a woman and Yohannan going from the place of construction of the guest house and he saw Yohannan and Kuttappan talking with each other. Subsequently, Kuttappan went away with the woman and Yohannan went back. The witness talked with Yohannan and informed Ramachandran Nair and George Ambrose.

6. Xavier Perira, another plant attender, has been examined as M.W.4. He was one of the occupants of the van by which Yohannan had left the plant premises. The witness admitted in cross-examination, that Yohannan went away saying that he is unwell.

7. M.W.5, the Dairy Manager has stated, that re-entry after duty time is unauthorised.

8. The question regarding re-entry after duty time can be disposed of first. It has come in evidence, that some employees who were off duty were even sleeping in the plant premises. The management has no case that they had proceeded against those employees who were seen in the plant premises after their duty time. Therefore it cannot be said that going back to the place of work a few minutes after the duty time would be a violation of service regulations. There is only the testimony of the Diary Manager to the effect that coming back to the plant premises after duty time is unauthorised entry. If their is such a provision in the rules of the company, the management would have produced the same in court. It can be inferred from the omission to do so that there are no such regulations. As it is, it cannot be said, that the employee had unauthorisedly re-entered the plant premises on the night in question.

9. Regarding the second charge certain circumstances have been brought out in evidence. Sri Yohannan had left the plant premises at about 2.15 A.M. on the morning of 16th August 1976. Ordinarily, he had no business to come back to the factory premises. I am not forgetting the statement made by M.W.2 that Yohannan had gone saying that he would come back after taking medicines and the statement made by M.W.4, that Yohannan had told him that he is unwell. It is not known as to why Yohannan should go back to the plant premises after taking medicines or otherwise. Both M.W.s. 2, and 3 had seen Yohannan in the company of a woman and Kuttappan. Both the witnesses swear that the woman went away with Kuttappan. Yohannan had told them, that the woman was brought by Kuttappan and he had questioned him (Kuttappan) abut it. If actually the woman was brought to the plant premises by Kuttappan or by Kuttappan alone it is not known why Yohannan did not detain the woman or both of them. The fact that Yohannan had left the plant premises after his duty time and that he had come back without any obvious reason when considered along with the circumstance, that he was seen in the company of a woman and Kuttappan, would go a long way to show that the woman was brought to the plant premises by Yohannan alone or by Yohannan and Kuttappan jointly. If Yohannan was as innocent as he had pretended before the witnesses nothing prevented him from coming to the witness box and explaining all the above circumstances appearing against him. After anxious consideration of all the above circumstances, I feel little hestitation in coming to the conclusion, that Shri. Yohannan is guilty of charge No. 2.

10. The next aspect to be considered is regarding the propriety of the punishment. The accused employee was working in the plant owned by the Kerala Livestock Development and Milk Marketing Board. He had taken a woman to his place of work after his duty hours. It is in evidence that the woman and the delinquent employee were seen near the place where some construction work was going on. The object of their visit to that place can only be with some purpose in mind. Employees have no right to make use of their place of work for such purposes. I therefore hold that the punishment of dismissal imposed by the management was proper.

11. In the result, I pass an award upholding the dismissal of Sri K. Yohannan.

This award will take effect on the expiry of 30 days of its publication in the Kerala Government Gazette as enjoined in Section 17A (1) of the Industrial Disputes Act.

Dictated to the Confidential Assistant, transcribed and typed out by him corrected by me on this the 3rd day of July 1982.

T. V. KUNHAHAMED,
Presiding Officer.

Appendix

Witnesses examined on the side of the Management:

M.W.1	Joseph Manuel
M.W.2	Rajappan Nair
M.W.3	Thankappan Pillai
M.W.4	Xavier Pereira
M.W.5	C.V. Thomas

Exhibits marked on the side of the Management:

Ext. M1	Statement of Sri. G. Rajappan Nair dated 16-8-1976
Ext. M2	Copy of charge memo dated 30-8-1976
Ext. M3	Explanation to the above memo dated 31-8-1976.
Ext. M4	Office order No. A2-1443/76 dated 15-9-1976.
Ext. M5	(Series) Statement of witnesses.
Ext. M6	(,,) Depositions of 3 witnesses.
Ext. M7	(,,) Deposition of witnesses etc.
Ext. M8	Enquiry Report dated 30-11-1976.

Exhibit marked on the side of the Workman:

Ext. W1	Copy of notice dated 1-7-1976 from the Manager, Milk Chilling Plant, Mavelikara to Sri. K.S. Mohanan and Sri K. Yohannan.

GOVERNMENT OF KERALA

Labour (A) Department

NOTIFICATION

G. O. (Rt.) No. 1014/82/LBR. *Dated, Trivandrum 18th September 1982.*

The award of the Labour Court, Quilon in respect of the dispute between Sri R. Gopalakrishnan Nair, President, Primary Land Mortgage Bank Ltd., No. 417, Neyyattinkara and the workmen of the above Bank namely Sri R. Purushothaman Nair, Vettannara Manikanta Vilasom, Venpakal P. O., (Via) Aralummoodu, Neyyattinkara received by Government on 27-8-1982 is hereby published under section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,
K. SIVADASAN,
Deputy Secretary to Government.

In the Labour Court, Quilon

Tuesday, the 17th day of August 1982.

Present :

SHRI T. V. KUNHAHAMED B. A. B. L.,
Presiding Officer

INDUSTRIAL DISPUTE No. 21/79 (Refiled)

Between :

Sri. R. Gopalakrishnan Nair, President, Primary Land Mortgage Bank, Ltd., No. 417, Neyyattinkara.

And

The Workmen of the above Bank namely Sri R. Purushothaman Nair, Vettannara Manikanta Vilasom, Venpakal P. O., (Via) Aralummoodu, Neyyattinkara.

Representations :—

Sri R. Lekshmana Ayyar, Advocate, Trivandrum. } For *the Management.*

Sri N. Krishnan Kutty, Advocate, Trivandrum. } For *the Workman.*

AWARD

This industrial dispute was referred to this court for adjudication by the Government of Kerala as per G.O. (Rt.) No. 615/79/L&H dated 25-4-1979. The issue referred for adjudication is "Dismissal of Sri R. Purushothaman Nair".

2. My learned predecessor had passed an award ordering reinstatement of Sri R. Purushothaman Nair, who shall hereinafter be referred to as the 'Workman'. The Primary Land Mortgage Bank which shall hereinafter be referred to as the 'Management' took up the matter to the High Court and the High Court by its order dated 15th December 1981, quashed the award directing this court to dispose of the dispute referred to it on its merits.

3. As per my order dated 13th May 1982, which read as follows:— "This industrial dispute was referred for adjudication by the Government of Kerala as per G. O. (Rt.) No. 615/79/L&H dated 25-4-1979. The issue referred for adjudication is 'Dismissal of Sri R. Purushothaman Nair.'

On 6th June 1980 my learned predecessor had passed an award reinstating Sri R. Purushothaman Nair with back wages.

The Management took up the matter to the High Court and the High Court by its judgment in O. P. 4471 of 1980-B dated 15th December, 1981 quashed the award directing this court to dispose of the dispute referred to it on its merits as expeditiously as possible.

The enquiry officer was examined as M.W.1, the report was marked as Ext. D1 and the records were marked as Ext. D2 series. M.W. 1 stated that himself and one Sri G. Vedhanayakam were the enquiry officers. The enquiry was ordered by the Board of Directors who felt that a prima facie case has been made out, that he does not remember whether himself and his colleagues. Sri Vedhanayakam had participated in the meeting of the board which had considered that question, that the letter given by the President authorising them to conduct the enquiry contained the charges based on which the enquiry was to be conducted, that they had issued a public notice asking members of the public to give evidence regarding the charges, that after publication of the notice they received new complaints and those complaints were treated as evidence on the charges, that after receipt of the complaints Sri Purushothaman Nair was asked whether he has anything to say on the complaints and that the letter sent to Purushothaman Nair is contained at page 9 of Ext. D2. The witness admitted that page 9 of Ext. D2 does not refer to the complaints received from the public. The witness further stated that the notice was sent before receipt of the complaints. The witness admitted that Sri Purushothaman Nair was not asked to come on the date on which the witnesses were asked to come and depose against him. The witness affirmed that the depositions were recorded in the absence of the accused officer. Admittedly Purushothaman Nair was not given an opportunity to cross-examine the witnesses. Similarly a proper opportunity was not given to Sri Purushothaman Nair to peruse the files relied on by the enquiry officers. In the circumstances, it cannot be said, that Sri Purushothaman Nair was given a proper opportunity to defend himself. Thus the enquiry officers have conducted the enquiry without complying with the requirements of the principles of natural justice. I would therefore reject Ext. D1.

I feel that an opportunity should be given to the management to substantiate their contentions before this court. Therefore the case is posted to 27th May 1982 for evidence on behalf of the management. The workman shall also get ready with his evidence". I set aside the report of the domestic enquiry and posted the case for further evidence in order to give the management an opportunity to substantiate their case before this court.

4. The management examined M. Ws. 2 and 3 and marked Exts. M4 to M17. The worker examined himself as W.W. 1 and marked Exts. W1 to W17. Arguments were heard.

5. The workman was the Supervisor attached to the management. The work of the bank is to give loans to agriculturists who are to repay the same in annual instalments, with interest accrued due on the Principal amount. It was part of the Supervisor's duty to take steps for collection of the annual instalments from the debtors. The main charge levelled against the workman is that he had not collected the correct amount and very often the amounts collected by him were much short of the amount actually due from the concerned debtors. The main defence of the workman is that there is no charge against him for under-collection. Ext. M6 is the memo of charges issued to the workman. The first charge is that 'You have failed to collect arrears from the loanees from November 1976 to November 1977 from the area allotted to you. You have not furnished proper records to prove that you have taken any steps to realise the arrears which is highly detrimental to the interest of this bank'. As per the same memo 'a sub-committee was constituted to conduct a detailed enquiry especially on the above three cases and also about your general working in the affairs of the bank'. The sub-committee had issued another charge-sheet and the same is seen at page 21 of Ext. D2 series. The memo reads "(1) It is seen from the relevant records that in collecting instalments of principal and interest due to the Bank you demanded and collected lessor amounts in some cases and higher amounts in some other cases some of which are loan Numbers 12, 18, 19, 22 and 24 of 1974-75. (2) In collecting the penal interest you have not acted as per Rule 49 of the bye-laws. It is seen that you have collected only nominal amounts as is seen from loan Numbers 2, 5, 8, 10, 13, 17, 18, 21, 25, 29 of 1974-75 and 2 and 12 of 1975-76. (3) You have made your own stipulations even against the directions of the Regional Office, Quilon, which caused delay and inconvenience to the applicant in Loan application No. 600/76-77 Mr. R. Ramachandran. (4) In L. A. No. 438/76-77 you have directed the applicant to produce attested copies of some irrelevant documents even without proper verification of the file as a result of which the applicant had to spent money unnecessarily causing delay and loss. (5) From the report submitted by you under the ARDC Special Programme from 19-9-1977 to 8-11-1977 it is seen that you had been in the field on 36 days and canvassed about 319 persons. In the register, it is seen that only 86 persons have registered their names of whom except 4 all others are persons from places other than where you went for canvassing. We presume that after you were relieved from other works, the reports are submitted on various

days without going to the field on most of the days. It is also seen from your report that you did not canvass any persons on 3rd, 4th, 7th and 8th November 1977 eventhough you had been to Olathanni, Poovar, Vazhichal, Neyyattinkara". The explanation given by the workman to the enquiry commission is seen at pages 33 to 37 of Ext. D2 series. Para 2 reads "The allegation in para (1) of the memo dated 8-2-1978 are false and hence denied. I never made any demand nor collected any amount either higher or lessor from the loanees as stated in para (1) of the memo dated 8-2-1978. I have only persuaded the loanees who have defaulted the remittance of the due instalments to the Bank. Since I was not given the opportunity to inspect the alleged records mentioned in the same para, I am not in a position to submit a detailed explanation. Hence I may humbly pray that I may be given an opportunity to inspect and study the alleged records at least in the presence of the Enquiry Commission to prepare a detailed explanation". It is clear from the above, that from the beginning the workman was aware of the charge of under-collection and excess collection and he had denied those charges. The workman did not tell the enquiry commission that by framing a charge for under collection the commission was acting beyond its powers. For the purpose of the present enquiry, it is sufficient if it is stated that even in 1978 the workman knew that one of the charges against him related to under collection.

6. At the evidence stage the workman had not attempted to put forward a case that there was no under collection. He had stated in cross-examination that when he found out the mistake in collection of interest he had brought the same to the notice of the higher authorities. The remaining statements made by the witness also would go to show that he has no case that the charge of under collection is baseless. In the explanation submitted by him or even in the claim statement filed by him the workman had not put forward a case that he was not the person responsible for entering the amount of interest due in the ledger. At the evidence stage, the case has been slightly changed probably with a view to escape from the liability for under collection of interest. The case put forward from the witness box is that there were clerks for calculation of interest, and that the interest was calculated by the superviser and the clerks. After calculation of interest the notices of demand are issued and the superviser enters the figures shown in the notices in the ledger. The witness further stated that the entries relating to which the management had adduced evidence before this court were all made by the clerks and himself. The witness stated in cross-examination that there is nothing in the ledger to show that the entries were made jointly by himself and the clerks. He admitted that he is not in possession of documents to show that the clerks had also participated in the calculation of interest. It was suggested that in the year 1976 there were no clerks in the bank. The witness denied the suggestion and stated that there were temporary clerks. The workman admitted that all the entries in the ledger were made by him. He has attempted to put forward a case that the notices of demand were prepared first and the figures shown in the notices were copied in the ledger.

This appears to be quite contrary to the normal practice, in similar institutions. The amounts are first calculated and the entries are made in the registers concerned and notices are issued on the basis of the entries made in the registers. The workman has attempted to put forward a new procedure with the object of introducing the hand of the temporary clerks in the process of calculation of interest. Admittedly the entries in the ledger were made by the workman and he has no case that the instances of under-collection of interest pointed out by the management are not correct.

7. Eventhough the workman has not disputed the case of the management regarding under collection, I would also refer to the evidence on that point. M. W. 2, is a former supervisor and a former assistant secretary and vice-president of the Bank. He has stated that the entries in Ext. M 7 the loan ledger were made by the workman. According to the witness, there was an under collection of Rs. 867.62 in the entry at page 12. Similarly the entry at page 18 shows that the amount demanded was less by Rs. 246.62. The witness stated that in the entry at page 22 the principal amount was less by Rs. 102.78 and the deficiency in the amount of interest was Rs. 341. In the entry at Page 24 there was an under collection of Rs. 521.71. The innerfoils of the receipts (duplicate) have also been produced by the management. The relevant receipts have been identified by M. W. 2. Some of the receipts like Ext. M 8 were signed by the workman on behalf of the Secretary. The witness was asked in cross-examination whether he can swear that all the notices of demand issued by him while he was working as Supervisor are for correct amounts. The witness stated that he cannot assert that all the figures shown in those notices are correct. The witness also stated that the notices of demand are signed by the Secretary without verifying the correctness of the figures shown therein. The witness was asked whether the correctness of the periodical collections would be verified at the time of the final settlement of amounts. The witness answered that he does not know. Apart from putting such general questions, there is no cross-examination regarding the amounts mentioned by M. W. 2 in examination in chief. The workman who was examined as W. W. 1 attempted to escape from liability for under collection of interest by stating that all the items about which evidence has been adduced by the management were calculated by himself and the clerks. I am pointing out that aspect with a view to show that the workman has no case, that the under collections spoken to by M. W. 2 are not correct.

8. Considering all the above circumstances, I feel little hesitation in concluding that the charge that the workman demanded and collected lesser amounts in some cases, stands amply proved.

9. The second charge relates to the inconvenience caused to M.W.3 by not making a spot verification and by making the workman's own stipulations. Sri Ramachandran had applied for a loan and he had offered as security portion of a property, the other portion of which has already been given as security to the Taluk Bank. Both the properties form part of the same survey sub-division. When the workman was directed

to make a spot verification he submitted a note stating that a certificate of clearance should be obtained. Subsequently a spot verification was conducted by M.W.2 as directed by the President. According to the workman, it was the Agricultural Officer who had written that a release deed should be obtained. W.W.1 further stated that the Administrator had decided that a certificate should be obtained by the applicant after payment of entire amount due to the taluk Bank. It was argued that the workman had shown insubordination. by putting up a note instead of carrying out the directions for spot verification, Iam afraid that the act of the workman cannot be described as insubordination. It is his duty to bring to the notice of the President all the factors. Even after reading the note, if the President had issued a direction for spot verification and if the workman had failed to carry out the same he would be guilty of insubordination. Here is a case where a portion of the same property has been mortgaged to the taluk Bank. When default is committed and the management-bank brings the property to sale intending bidders would hesitate to purchase the same because of the existance of a prior charge. In the circumstances, I hold that the workman is not guilty of the charge relating to the loan application of Mr. Ramachandran.

10. The next charge is that the workman had directed one Leela to get certified copies of the documents referred to in the encumbrance certificate. The Law Officer of the Society has also stated that those documents were quire unnecessary. The defence of the workman is that the survey numbers shown in the application for loan and in the encumbrance certificate were different. It is true that some inconvenience and delay has been caused to the applicant as a result of the directions given by the workman. In view of the difference in survey numbers, it cannot be said that the action of the workman was without any basis. I would therefore absolve him of the charge relating to the loan application of Leela.

11. The next charge is that during the period 19-9-1977 to 8-11-1977 the workman was in the field for canvassing applications under the ARDC special Programme. The workman had reported that he had canvassed about 319 persons. The register shows that only 86 names have been registered out of which all except four are from places where the workman had not visited. The workman stated in examination in chief that he had not filed any false report regarding visits and all the persons who had registered in the bank are from the areas where he had visited. He stated in cross-examination that he had not collected applications and the bank had issued orders to the effect that it is enough if he canvasses. According to M.W.2. the progress report submitted by the workman does not agree with the entries in the register. He admitted in cross-examination that applications canvassed on a particular day can be registered the next day and that he had not directed the workman to give more details in his report. He admitted that it is because of the vagueness of the progress report that he has asserted that there is difference between the entries in the register and in the progress report. The workman was given a fairly large area for canvassing applications and admittedly a sizable number ofapplicants

had turned up. It cannot be said that he had filed a false report regarding visits and regarding the number of applications canvassed by him. I hold that this charge has also not been proved.

12. The question to be decided is regarding the propriety of the punishment imposed on the workman. It has already been seen that Charge No. 1 which relates to under collection of substantial amounts has been proved. It is quite unwise to retain such a person in a responsible capacity in a banking institution. At the sametime, I feel that the workman who is fairly young and who had committed the misconduct within the first three years of his service should be given an opportunity to improve himself. Therefore I hold that a punishment of reduction in rank would be sufficient. The workman was original by appointed as Supervisor and he had continued in that capacity until the suspension and dismissal. Now the management-bank is having sufficient business and it is employing a few clerks. The workman can also be retained in service as a Clerk. His emoluments shall be fixed taking in to account the number of years of service and granting him due increments. The workman shall not be entitled to get backwages from the date of dismissal till the date of coming into effect of this award.

13. In the result, I pass an award, reducing the punishment into one of reduction in rank to that of a Clerk and ordering Fixation of Sri. Purushothaman Nair's salary taking into account his total service and granting him annual increments on that basis. Sri. Purushothaman Nair shall not be entitled to backwages from the date of dismissal till the date of coming into effect of this award.

This award shall take effect on the expiry of 30 days from the date of its publication in this Gazette.

Dictated to the Confidential Assistant transcribed and typed out by him corrected by me on this the 17th day of August 1982.

T. V. KUNHAHAMED,
Presiding Officer.

Appendix

Witnesses examined on the side of the Management:

M.W. 1	..	V.M. Ahamedkhan
M.W. 2	..	P.V. Krishnan Thampi
M.W. 3	..	Ramachandran

Witness examined on the side of the workman:

W.W. 1	..	R. Purushothaman Nair

Exhibits marked on the side of the Management:

Ext.M. 1	..	Report submitted by the enquiry committee
Ext.M. 2	...	A series of correspondence on various dates
Ext.M. 4	..	Bye-laws.
Ext.M. 5	..	List showing the villages allotted to Sri. Purushothaman Nair
Ext.M. 6	..	Letter addressed to Sri. Purushothaman Nair dated 11-11-1977.

Ext.M. 8	..	Sales receipt dated 25-11-1970
Ext.M. 9	..	do. 11-11-1970
Ext.M. 10	..	do. 29-1-1977
Ext.M. 11	..	do. 26-11-1976
Ext.M. 12	..	do. 7-1-1977
Ext.M. 13	..	do. 13-1-1977
Ext.M. 14	..	do. 22-4-1977
Ext.M. 15	..	Loan File No. LA. 600/76-77
Ext.M. 16	..	do No. LA-438/76-77
Ext.M. 17	..	Allotment file of the employee in the Scheme under Minor Irrigation.
Ext.M 18	..	Loan Application Register

Exhibits marked on the side of the worker:

Ext.W1	..	Letter addressed to the Secretary of the Bank from Purushothaman Nair, dated 24-1-1977
Ext.W2	..	Forwarding letter dated 11-4-1977 to the M.D. KCC & M. Bank Ltd. from Sri Purushothaman Nair.
Ext.W3	..	Forwarding letter dated 11-4-1977 from Sri. Purushothaman Nair to the Secretary of the Bank
Ext.W4	..	Representation dated 11-4-1977 to the Registrar of Co-operative Societies from R. Purushothaman Nair.
Ext.W5	..	Order dated 7-9-1977 of the Deputy Registrar (General)
Ext.W6	..	Letter addressed to the Secretary of the Bank from Purushothaman Nair dated 3-10-1977
Ext.W7	..	Representation dated 8-2-1978 submitted to the Convenor of the enquiry committee.
Ext.W8	..	Letter addressed to the enquiry committee dated 10-2-1978
Ext.W9	..	True copy of resolution No.7 dated 15-3-1978
Ext.W10	..	Letter from the Secretary of the Bank dated 27-3-1978
Ext.W11	..	do. .. dated 1-4-1978.
Ext.W12	..	True copy of resolution No. 3 dated 31-3-1978.
Fxt.W13	..	Advocate notice dated 21-6-1978 addressed to Purushothaman Nair.
Ext.W14	..	Special duty allotted to Sri. Purushothaman Nair dated 16-9-1977.
Ext.W15	..	Letter addressed to the Secretary of the Bank by Purushothaman Nair dated 19-7-1977
Ext.W16	..	Letter addressed to Purushothaman Nair by the Secretary dated 20-9-1977
Ext.W17	..	Letter addressed to Sri. Purushothaman Nair by the President dated 11-11-1977.

GOVERNMENT OF KERALA

Labour (A) Department

NOTIFICATION

G. O. (Rt.) No. 947/82/LBR. *Dated, Trivandrum, 6th September 1982.*

The award of the Labour Court, Ernakulam in respect of the disputes between the President, Arimbur Service Co-operative Society Limited, No. 728, Arimbur, Trichur District and the workman of the above concern Smt. C. P. Lathika, w/o. Kaniyamparambil Karthikeyan, Chelakottukara, Trichur-5 and the President, Arimbur Service Co-operative Society Limited No. 728, Arimbur, Trichur District and the workman of the above concern Shri C. J. John, S/o. Joseph Chalissery, P. O., Veluthur, Trichur District received by Government on 26-8-1982 is hereby published under section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947.)

By order of the Governor,
K. SIVADASAN,
Deputy Secretary to Government.

In the Labour Court, Ernakulam

Dated this the 18th day of August, 1982

Present:

SHRI N. SUKUMARAN, B. SC., B. L.,
Presiding Officer

INDUSTRIAL DISPUTE No. 3 of 1978.

Between

The President, Arimbur Service Co-operative Society Limited No. 728, Arimbur, Trichur District

and

The workman of the above concern Smt. C. P. Lathika, W/o. Kaniyamparambil Karthikeyan, Chelakottukara, Trichur-5

AND

INDUSTRIAL DISPUTE No. 4 of 1979

Between

The President, Arimbur Service Co-operative Society Limited No. 728, Arimbur, Trichur District

And

The workman of the above concern Shri C. J. John, S/o Joseph Chalissery, P. O. Veluthur, Trichur District.

Representations:—

Shri M. Venugopalan,
Advocate, Trichur. .. For *Management.*

M/s. N. P. Samuel & P. A. Surendranath,
Advocates, Trichur. .. For *Workmen.*

AWARD

These two cases have been jointly tried as agreed by the parties and therefore I am disposing them of by this common award. The Management involved in both the cases are the same Co-operative Society. It first dismissed the then Secretary Shri C. J. John and I. D. 4/79 relates to that dismissal. Later Smt. C. P. Lathika who was the Head Clerk of the Society when Shri John was the Secretary, was also dismissed. I. D. 3/78 concerns her dismissal. The reference concerning Shri John was made by Government as per G. O. (Rt.) No. 1905/78 L&H dated 11-12-1978 and the other as per G. O. (Rt.) No. 1833/78/L&H dated 30-11-1978.

2. The dismissals were after ex parte domestic enquiries. The two cases were independently tried and the validity of the domestic enquiry conducted against Smt. Lathika was considered by me and disposed of by a preliminary order dated 4-11-1981. I found therein that there was no valid domestic enquiry as against Smt. Lathika. A copy of that order is appended to this award as an "Annexure". Thereupon the Management opted to adduce fresh evidence for the misconducts attributed against Smt. Latbika. One witness for the Management was also examined in part. At that stage the validity of the domestic enquiry against Shri John was being considered independently in the case concerning him. It was at that stage that the Management conceded that there was no valid domestic enquiry against Shri John also and that it is necessary to adduce fresh evidence before this Court in that case also. Documents intended to be produced in evidence in both the cases were also identical and that was how both sides agreed that a joint trial of the cases may be had. It was further conceded by both parties that part of the examination of MW1 already had in the case against Smt. Lathika may be treated as common evidence for both the cases. The examination of MW1 was completed subsequently and further evidence also adduced as common to both the cases.

3. Certain admitted facts can be stated here before narrating the matters in controversy. The affairs of the Management Society (referred hereafter as the Society) were under the charge of an Administrator for some time when election to the Board of Directors was held on 18-6-1972. Two rival panel of candidates contested the election and the group to which MW1 and others belonged managed to bag a majority of seats. Even before they took charge there was a signature campaign to hold a general body meeting of the members of the Society to consider a non confidence motion against the group that was returned successfully with a majority in the election. The signature campaigners had some success and the

Administrator on their request called a meeting to be held on 10-9-1972 as per Ext.M34 notice dated 23-8-1972. The notice was issued even before new Director Board took charge. That Board held a meeting on 4-9-1972 and passed a resolution cancelling the general body meeting that was proposed to 10-9-1972. It was also resolved to give wide publicity to the resolution by way of advertisements in the Mathrubhoomi and Malayalam Express Dailies and also by publication of the notice of the resolution on the Notice Board of the Society. The Secretary Shri John was directed by the new Director Board to carry out the publications. The paper publications appeared in the Mathrubhoomi and Malayalam Express Dailies in their respective issues dated 7-9-1972. In the meanwhile the Secretary had issued a certified copy of the Director Board resolution dated 4-9-1972 cancelling the proposed meeting to Shri Devassy, a member of the Society, on 5-9-1972. Shri Devassy making use of that certified copy filed arbitration case No. 91/72 challenging the validity of that resolution. Notice was issued to the Society by the Arbitrator on receipt of which Shri John presented Ext. M64 notes on 6-9-1972 before the new President suggesting that the case has to be defended. Shri John himself made appearance on behalf of the Society in that case in his capacity as the Secretary. The president appeared before the Arbitrator and sought permission to get himself impleaded in that case as a party on behalf of the Society. That prayer was opposed by the petitioner Shri Devassy and the Secretary Shri John. The petitioner Shri Devassy had also moved for an injunction restraining the Board from executing its resolution dated 4-9-1972 to cancel the meeting proposed to 10-9-1972. Though the request of the President to get himself impleaded in the proceedings was rejected the Arbitrator dismissed the injunction petition also. Thus the meeting called to 10-9-1972 was not held. The new Director Board was in charge of the affairs of the Society and Shri John continued as the Secretary. While so he proceeded on short leave from 5-3-1973 and Smt. Lathika was in charge in the leave vacancy. Shri John was suspended on 7-3-1973 on certain allegations and he was asked to hand over charge to Smt. Lathika. He did not do so. Smt. Lathika was asked to assume charge as the Secretary and she did so. She held the responsibilities of the Secretary till 12-3-1973 when one Mr. Ravindran on deputation from the District Co-operative Bank took charge as the Secretary from her. Shri Ravindran held that post till 10-11-1973 when MW1 Shri Madhavan replaced him. Smt. Lathika was also suspended later on 17-12-1973. Both Shri John and Smt. Lathika were subsequently dismissed after the enquiries of which reference was already made.

4. The charges against Shri John have been raised and adopted in three resolutions of the Director Board of the Society copies of which are Exts. M43, M47 and M48 respectively dated 30-10-1972 and 27-4-1973. Those charges were admittedly served on Shri John and he had filed his explanations. As many as 9 items were included in Ext. M43 and they are the following :—

I. Shri John who was directed to publish the resolution dated 4-9-1972 on the notice board on the same day did not do so.

II. Shri John who was asked to publish the resolution dated 4-9-1972 by way of advertisements in the issues of Express and Mathrubhoomi dated 6-9-1972 did not take timely action to do so. When enquired by MW1, the Director Board Member, about the failure on 6-9-1972 he misrepresented that he had already made arrangements for advertising the resolution in the issues dated 7-9-1972 on those papers. That information was incorrect as was gathered from the office of the Express Newspaper at Trichur and therefore the President, MW1 and another Board Member met Shri John in the office of the Society and directed him to take immediate action to publish the resolution in the papers. Shri John refused to act accordingly and assaulted the President and prevented the latter from preparing the draft of the publication on the letter pad of the Society in the office. He also seized the letter pad and the seal of the office from the President and uttered abusive words against the President and the two Board Members.

III. Shri John instigated Shri P. V. Devassy to file A. R. C. 91/72 against the Society and for that matter issued the attested copy of the resolution dated 4-9-1972 and took up an attitude in that case against the interest of the Society without consulting the President or the members of the Director Board.

IV. Shri John misused his official position and deputed the employees of the Society to collect signatures of the members of the Society in order to move a non confidence motion against the New Director Board.

V. Apprentices selected by the Society were admitted to duty without the sanction of the Director Board.

VI. Shri John engaged his own car on hire on behalf of the Society even when circumstances did not justify the use of a car and appropriated excessive hire charges and thereby enriched himself at the expense of the Society.

VII. Shri John absented without leave from the office of the Society and thus behaved in an irresponsible manner.

VIII. Shri John instigated one of the Director Board Members to raise a complaint against the Director Board on the basis of an application submitted by someone for the post of a Peon without placing the application before the Board.

IX. Monthly statements of accounts were not submitted to the Board in spite of repeated directions issued on that behalf by the President.

The additional charge raised in Ext. M47 is numbered by me here as item No. 10 and it is as follows :—

X. Shri John who was in the habit of discarding the directions of the Director Board failed to hand over charge of the Secretary to Smt. Lathika even though he was issued written instructions to do so.

One other item of charge was raised in Ext. M48 and that is to the following effect which for convenience is numbered as XI.

XI. One Blackston 20/22 H. P. Oil Engine belonging to the Society was sold by Shri John without the sanction of the Director Board on 20-2-1973 and thereby incurred a heavy loss to the Society.

5. The charge against Smt. Lathika contained in Ext. M1 (g) dated 18-2-1974 is the following:—

That she who was jointly in charge of manure and insecticides handled by the Society along with the then Secretary Shri John in collusion with the latter committed misappropriation of those items to the value of Rs. 12,117.40 in the accounting year ending on 30-6-1972 and Rs. 27,265.95 in the accounting year ending on 30th of June 1973.

6. Smt. Lathika in her claim statement attacks her dismissal as one effected by way of victimisation by the new Director Board that came into power. According to her two rival groups led by the then local M. L. A. Shri N. I. Devassykutty on the one part and his brother Shri Josmer on the other contested the elections and the group of Shri Devassykutty that came into power with a majority had a feeling that the employees were on the side of the other group in the elections and the disciplinary proceedings were initiated to wreak vengeance on herself and the then Secretary. The allegations against her are utterly false. She was only a Clerk and in that capacity she was attending only to official matters. The Secretary is the custodian of manure and insecticides as per the bye-laws and he was actually handling those items: Shri K. K. Ravindran who took over charge as the Secretary of the Society was actually in charge of manure and insecticides. He was responsible for the shortage. The allegations were raised against her (Lathika) in order to shield Shri Ravindran from the responsibility of shortage, if at all any. Actually there was no shortage. She is really innocent of the allegations. That she is so innocent was held in a prosecution launched by the Society on the same allegations. The enquiry was not properly held. The new Director Board had held the employees in an atmosphere of terror and fear and actually the employees were dismissed one by one. She (Lathika) who is really innocent is entitled to reinstatement with all benefits.

7. The above claims are answered by the Management in its written statement in the following manner :—

The stock of manure and insecticides were in the joint custody and control of Smt. Lathika in her capacity as the Head Clerk of the Society and Shri John the then Secretary. Dificiency in the stock as detailed in the charge was detected in the audit held for the periods ending

30th June 1972 and 30th of June 1973. Disciplinary proceedings were initiated bona fide on the basis of the deficiency detected. Actually Smt. Lathika was also responsible for the loss occasioned to the Society on account of the shortage. The contention that the Society's action lacks bona fides and it was motivated with an idea to victimise the employee is false. The Society had held a proper and valid domestic enquiry in accordance with the principles of natural justice. There was actual shortage and the allegation that some others were responsible for the same is not correct. The misconduct committed by Smt. Lathika along with the then Secretary is very serious and she deserves the punishment of dismissal awarded to her. There are no reasons to interfere with the punishment or grant her any other reliefs.

8. Shri John in his claim statement while pleading innocence of the charges contends that he did not have proper notice of the domestic enquiry held exparte at the instance of the Management. He contends further that he was dismissed during the pendency of the conciliation proceedings without sanction from the Conciliation Officer and therefore the dismissal itself is invalid. The charges are also answered item by item. He claims to have published the decision of the Director Board on the notice board of the Society on 4-9-1972 itself. He had already made arrangements to see that necessary publication appeared in Mathrubhoomi Daily dated 7-9-1972. Thereafter he went to Express Newspaper's office to give the advertisement there. Then the President who was present in that office, undertook to do the work himself and therefore he did not do anything further in the matter. The allegation that he assaulted the President and mis-behaved to the President and the Members is false. He had issued the certified copy of the decision to Shri Devassy on a proper application presented to him. He was in duty bound to do so. But the allegation that he instigated Shri Devassy to initiate a case against the Society is baseless. He did not Act against the interest of the Society in the case filed by Shri Devassy. On the other hand he was defending the case of the Society there in all earnestness. He did not depute the employees of the Society to collect the signatures for the non confidence motion. The apprentices were selected and appointed as directed by the Director Board. His car was not used for the purpose of the Society and no fare was collected on that account. He never absented from office without leave. He also did not abet the Board Member to raise complaints against the Society. Failure to hand over charge was for the reason that he was on leave. The oil engine was sold after due publication effected at the instance of the Director Board. The Society did not suffer any loss in that transaction. Even otherwise he had no responsibility in that matter. The Society had initiated criminal prosecution against him before the Enquiry Commissioner and Special Judge, Trichur and he had been honourably acquitted in those cases. He was working as the Secretary of the Society from 1952 onwards and all along he had endeavoured for the prosperity and well being of the same. He had been victimised by the new Director

Board because he was not amenable to go out of the way and support the unauthorised actions of that Board. He is an innocent victim punished for no fault of him. The dismissal is not sustainable and he has to be reinstated with all benefits.

9. The Management in its written statement contends that Shri John was guilty of grave acts of misconduct alleged against him and that the same were well established in a properly conducted domestic enquiry. The action of the Management was bona fide and it was initiated on proper basis. The fact that he was acquitted in the prosecutions by the Special Judge is not relevant in these proceedings as the prosecution concerned with penal offences which are not the subject matter of the allegations against him. The misconducts committed by Shri John are serious enough to sustain the punishment of dismissal. There is no legal flaw in the dismissal order. Shri John is, therefore, not entitled to any reliefs.

10. Shri John had filed a rejoinder reaffirming the allegations contained in the claim statement and denying the contentions of the Management.

11. The evidence in the case consists of the testimony of 7 witnesses for the Management, 3 for the workmen, Exts. M1 to M86 and W1 to W12.

12. Victimisation is attributed by the employees as the motive for the actions of the Management. But it can be seen that there were apparent discrepancies in the accounts as revealed in the audit. (Though the audit reports Exts. M29 and M30 are subsequent to the dates on which the disciplinary proceedings were initiated it is evident that the audit had started much earlier and the discrepancies were revealed when it was in progress). Action against Smt. Lathika was on the basis of those discrepancies. It cannot, therefore, be said to be one initiated without reasonable basis and bona fides. As regards Shri John it is common case that the relationship between himself and the new Director Board was strained from the very beginning. The question as to whether the Board's action amounts to victimisation or not can be decided only after scrutinising the evidence in further detail and deciding as to who was at fault.

13. I shall first deal with the case against Smt. Lathika. The Society's case is that she was having joint custody and responsibility of manure and insecticides along with the Secretary and that there was shortage in those items as on 30-6-1972 and 30-6-1973. Smt. Lathika's main defence is that she had nothing to do with manure and insecticides and her responsibilities were confined to the office as a clerk. The other contention is that there was actually no shortage. There is also the allegation that the new Director Board had a special reason to foist a false case against her.

14. Ext. M51 is the bye-laws of the Society, Ext. W2 being another copy of the same.. Clause 47 of the bye-laws clearly indicates that the Secretary is, the custodian of manure and insecticides. Based on that provision an argument is advanced by the learned counsel appearing on

behalf of the employees (the same learned counsel is appearing for she employees in both the cases) that Smt. Lathika cannot be held responsible for the deficiency, if at all any, in the stock of manure and insecticides. It is also argued that the Society had accepted this position in the prosecutions launched before the Enquiry Commissioner and Special Judge, Trichur as C. C. cases 32 and 33 of 1975. Exts. W6 and W7 are respectively the judgments under which the accused therein were acquitted. In Ext. W6 case Shri John was the first accused and Smt. Lathika the second. We are not much concerned with Ext. W7 case as it relates to Shri John on a matter which is not the subject matter of the present cases. In Ext. W6 case the prosecution alleged that Shri John in his capacity as the Secretary was the custodian of manure and insecticides and that he had misappropriated substantial quantities of those items. There was no case there that Smt. Lathika was also jointly responsible for the items. The only allegation against her was that she fabricated records and falsified accounts in order to help Shri John to conceal the misappropriation committed by him. But Ext. W6 case was charge-sheeted by the Police on the basis of Ext. M33 written complaint submitted by the Society before the Deputy Registrar of Co-operative Societies and forwarded to the Police by the latter. The Society had alleged in Ext. M33 that both Shri John and Smt. Lathika were joint custodians of manure and insecticides and they are jointly liable for the shortage. However the Police when they charge-sheeted the case probably on the basis of the provisions contained in the bye-laws limited the charge of misappropriation to Shri John and charge-sheeted Smt. Lathika only for fabrication of records and falsification of accounts. So it cannot be argued on the basis of Ext. W6 judgement that the Society had no case that Smt. Lathika had responsibility regarding the stock in manure and insecticides. Regarding the relevant provision of the bye-laws the argument advanced by the learned counsel appearing on behalf of the Society is that the Secretary as the Chief Executive Officer is in over all charge of all the assets and he has the ultimate responsibility in that manner and that does not mean that the other subordinates actually put in charge of various items can plead innocence when it is found that there was discrepancy in matters handled by them. There cannot be any dispute regarding the proposition advanced by the learned counsel. It may not be physically possible for the Secretary to handle the various activities of the Society and it may be necessary to delegate powers to the other subordinates for the convenient and smooth working of the concern. If as a matter of fact Smt. Lathika was in charge of the items of manure and insecticides then she is responsible for the deficiency or other irregularities, if any. So we have to see as to whether there is acceptable evidence to hold that Smt. Lathika was actually in charge of manure and insecticides.

15. MW1, the Secretary, who took charge of the Society from Shri Raveendran states that Smt. Lathika and Shri John were joint custodians of manure and insecticides. Same is the version of MW2 who was one of the Members of the Director Board at the relevant time. Shri John

as WW1 states that he was in sole charge of manure and insecticides and Smt. Lathika had nothing to do with it. To the same effect is the statement of Smt. Lathika as WW2 They are corroborated on these aspects by WW3 Smt. Thresiakutty who was another clerk of the Society at the relevant time. WW3 was dismissed by the Society in another disciplinary proceedings. The Society, therefore, argues that she has an axe to grind against it. But both MWs. 1 and 2 have admitted that there are no documents to show that Smt. Lathika was actually put in charge of manure and insecticides. Of course the Society relies on certain other documents to make an inference that she was actually in charge of these items. But it is seen from the available evidence that the Society itself was not sure as to who was really responsible for the shortage in manure and insecticides as it is seen to have asked the explanations of all the employees in the Society when the deficiency was detected. U. M. Baby WW3 Thressiakutty, P. L. Antony and Lathika were asked to explain the deficiency in the stock. Ext. M67 is the explanation submitted by Shri P. L. Antony who was the Head Clerk and he had retired on 24-6-1972. He was on leave for one month immediately prior to the date of retirement. What is stated by him is that in his capacity as the Head Clerk he was only writing up accounts of manure and insecticides as directed by the Secretary and that the Secretary Shri John was the actual custodian. To the same effect is the explanations submitted by U. M. Baby in Ext. M1 (a) and Smt. Thressiakutty in Ext. M1 (b) respectively. In Ext. M1 (a) Baby had stated further that Smt. Lathika used to be in charge of manure and insecticides in the absence of the Secretary on leave. So Exts. M1 (a), M1 (b) and M67 relied on by the Society also go against the Society's case that Smt. Lathika and Shri John were the joint custodians of manure and insecticides. Those documents only indicate that the Secretary was the sole custodian and Smt. Lathika had occasion to handle those items only when she happened to be in charge of the Secretary in his absence. There is nothing in evidence to indicate that Smt. Lathika was actually in charge of the Secretary on any day prior to 5-3-1973 when Shri John had proceeded on leave. Smt. Lathika had charge of the Secretary only from 5-3-1973 till 12-3-1973 when Raveendran took over. There is no indication in evidence that Shri John had actually handed over the stock of manure and insecticides to Smt. Lathika when he proceeded on leave on 5-3-1973. On the other hand it is the Society's case that Shri John did not hand over charge to Smt. Lathika and that she had been asked to assume charge on Shri John's failure to obey the direction to hand over the charge. Ext. M18 is the resolution dated 7-3-1973 to that effect. As per that resolution Smt. Lathika had only assumed charge and there is nothing to show that she had actually taken actual physical charge of the stock after a verification. She later handed over charge to Shri Ravindran on 12-3-1973 as per Ext. W3. Shri Ravindran had acknowledged charge in Ext. W3. Shri Ravindran had acknowledged charge in Ext. W3 and what was handed over was the cash balance and 13 keys along with the officiating charge which she had. There was no actual handing over of stock of manure and insecticides as per Ext. W3.

But the document states that whatever charge she was holding on a temporary basis as per the resolution dated 7-3-1973 is handed over. Shri Ravindran subsequently handed over charge to MW1 on 9-11-1973 and the relevant record is Ext. M20. That is a detailed list of various items, but does not include manure and insecticides. Ultimately when Smt. Lathika was suspended she had handed over charge to MW1. That relates to all the items which she was holding charge in her capacity as the Head Clerk. Ext. M31 is the charge list. That also contains various items. But it did not include actual stock of manure and insecticides but only the relevant account books concerning those items. But we have Ext. M1 (f) dated 18-12-1973, i. e., the next day under which the actual stock of manure and insecticides were also handed over by Smt. Lathika to MW1. Much emphasis is laid by the Society on this document to show that Smt. Lathika was actually holding charge of these items and that is how she could hand over physical charge of them to MW1. Smt. Lathika in her evidence states that she was compelled by MW1 to execute a document like Ext. M1. Her version cannot be accepted in view of the fact that she is seen to have been in possession of the keys of the godown where the manure and insecticides were stored and those goods were also handed over as per Ext. M31. So we can safely conclude that she was actually in possession of the manure and insecticides at the time she was placed under suspension. But there is no convincing evidence to say as to when she actually came to possess those items. As already mentioned there is nothing to show that she was actually put in charge of these items If at all she came to possess the items she could have them only when Shri John went on leave on 5-3-1973. But on that day there was no actual physical verification of the stock. There is also no evidence to say that she actually verified the stock and took custody of the items. Without proof of having entrusted a particular item of stock to her on a particular day it is not possible to hold that she is responsible for the deficiency at some point of time later, At any rate she was not shown to be in possession as on 30-6-1972. So she cannot be held liable for the deficiency as on that day, As regards the deficiency if at all any as on 30-6-1973 also she cannot be made liable in the absence of proof that she came to possess a specified quantity of these items. So Smt. Lathika cannot be held liable for the deficiency, if at all any.

16. Regarding the alleged deficiency also there is a dispute. The discrepancies are pointed out in Exts. M 30 and M 29 audit reports for the accounting years ending on 30-6-1972 and 30-6-1973 respectively. Exts. M12 and M13 respectively are the stock statements as on 30-6-1972 and 30-6-1973. Shri John in his capacity as the Secretary is seen to have signed in Ext. M12. Smt. Lathika is a signatory to Ext. M13. The fact that Smt. Lathika has signed in Ext. M13 is a further indication that she had something to do with the stock on that day. When that is the position her failure to be a signatory to Ext. M12 gives an indication that she had nothing to do with the stock as on 30-6-1972. The position revealed by

Ext. M12 does not tally with Ext. M4 Stock Register for Manure and insecticides. The entries in Ext. M4 on comparison with Exts. M7 and M8 Day Books of the Society indicate that the manure purchased on certain occasions during the relevant period has not been brought to the Stock Register Ext. M4. It is on the basis of these discrepancies that the Auditor had certified in Ext. M30 that there was deficiency of manure to the value of Rs. 12, 117.40 as on 30-6-1972. No attempt was made by the defence to show that the discrepancies pointed out in Ext. M30 with reference to Exts. M4, M7 and M8 are not really available. Same is the position regarding the discrepancies pointed out in Ext. M29 audit report for the subsequent period also. Exts. M9 series and M10 series, carbon copies of bills, when taken along with the stock position revealed by Ext. M4 would show that some items which were not actually available in stock were subsequently sold The bills are relied on by the Society to show that bogus bills had been written later to cover up the deficiency in sales. It is also argued that entries regarding stock was subsequently made in Ext. M4 as on 29-6-1972 bringing in stock when as a matter of fact there was no such purchases on those days. These are all real discrepancies in the matter of maintenance of the records. Admittedly Smt. Lathika was responsible for making the entries in the registers. But of course she was maintaining the registers as per the directions of the Secretary. The fact that she had made wrong and irregular entries in the accounts by itself is not sufficient to say that she was a party to the actual misappropriation. All that is made out against Smt. Lathika is that she came to possess the stock without actual verification and also made incorrect entries in the books. The allegation that she committed misappropriation in connivance with Shri John cannot, therefore, be accepted. But she is really responsible for the wrong or incorrect entries in the accounts.

17. Now we have to consider as to what reliefs Smt. Lathika is entitled in the matter of punishment. Smt. Lathika was dismissed on the assumption that she was responsible for the misappropriation. But I have already found that she cannot be held liable for that misconduct. Of course she did not keep the accounts properly. But the accounts are written up as per the directions of the Secretary. Still she had a duty to see that the accounts are properly maintained. So she is guilty of a minor misconduct for which some punishment short of dismissal will be adequate. The Society has no case that her antecedents were in any way bad. So she can be reinstated and the loss of back wages will be sufficient punishment for her. The Management Society had subsequently been amalgamated with another Society and it is now functioning as Arimbur Service Co-operative Bank. The successor Society has a responsibility to abide by the result of this adjudication. So that Society is directed to reinstate Smt. Lathika with continuity of service but without benefits of back wages. Her position in the new Society will be fixed in accordance with the principle adopted in the matter of seniority of employees of the two Societies absorbed from both the component Societies.

18. Now we come to the case against Shri John. At the time of arguments Shri M. Venugopalan, the learned counsel appearing on behalf of the Society, canvassed for the position that Shri John is guilty of miss-appropriation of stock in manure and insecticides and that can also be treated as an additional item of charge against him. The learned counsel for Shri John vehemently opposed this move and argued that it is not open to the Society to advance such an argument when it had not charge-sheeted Shri John for misappropriation of stock in manure and insecticides. The position taken up by the Society is that Shri John was dismissed at a time when the deficiency in stock was not known and therefore it had no opportunity to proceed against Shri John for misappropriation and the matter is now left open and the society is at liberty to sustain the punishment on grounds which were not in the original charge. But at no point of time before the final arguments had the Society pleaded before this Court that it intends to prove the charge of misappropriation concerning manure and insecticides as a misconduct against Shri John. In the written statement it was not indicated that Shri John is guilty of this misconduct also. When joint trial was ordered and the Society proposed to adduce fresh evidence before this Court against Shri John it was possible for the Society to state that they proposed to rely on this additional item of misconduct also. That was not done. The argument is advanced without giving an opportunity to Shri John to defend the charge of misappropriation. It is unfair in the circumstances to permit the Society to argue for the position that Shri John is guilty of misappropriation of stock in manure and insecticides. So I cannot consider the so-called misappropriation as a substantial item of charge against Shri John. I shall therefore confine myself to the charges already enumerated earlier.

19. I shall start with item No. IV of the charge as the misconduct mentioned therein is alleged to have taken place before the incidents which are the basis of item Nos. I, II and III of the charge. It is common case that an extraordinary meeting of the general body of the members of the Society was called to be held on the 10th of September 1972 to pass a non-confidence motion against the Director Board members who were elected on 18-6-1972 Ext. M 34 is one of the notices published for that purpose. That notice is published by the Secretary of the Society. Shri John was the then Secretary. The allegation is that Shri John had deputed the employees of the Society to collect signatures in the signature campaign launched for calling such a meeting. It is the case of the employees that two rival factions had set up their candidates for the election to the Director Board, one at the leadership of Shri N. I. Devassykutty and the other headed by Shri N. I. Josmer. Ext. M34 shows that Shri N. I. Josmer and his men were behind the move for calling the extraordinary general body meeting. The case of the employees in the present case is that the group who won the elections had a feeling that the employees were on the other side. That there was factional feud in connection with the affairs of the Society is evident from Ext. W5, copy of a letter issued from the Circle Officer of the Co-operative Societies, Trichur to the Registrar of Co-operative Societies.

The circumstance that a section was out to pass a resolution of nonconfidence against the elected members even before they took charge is evident from Ext. M 34 also. MW3 is the only witness who speaks of the allegation that Shri John had deputed the employees of the Society to collect signatures in connection with Ext.. M34 meeting. MW3 is a Peon of the Society. He has given evidence that himself and other employees were deputed by the Secretary to obtain signatures of the members for calling the, extraordinary generalbody meeting and that he himself had collected signatures of some of the members. It is highly unsafe, according to the learned counsel appearing on behalf of the employee, to rely on the solitary evidence of MW3 on this aspect. But we have other circumstances in evidence from which it could be seen that Shri John himself was adopting a hostile attitude towards the majority party that came into power. Ext. M 35 order of the Asst. Registrar in A. R. C. 91/72 filed by Shri Devassy reveals the attitude which Shri John had taken up in that case. The case was filed by Shri Devassy to see that the resolution cancelling the meeting proposed to be held on 10-9-1972 was not given effect to. There Shri John had opposed the request of the President to get himself impleaded in that case. The objection may be valid because of the legal position that the Secretary is the proper officer to be sued against. But the stand taken up by him in that case is referred in Ext. M 35 where the Arbitrator observes as follows:

> "The Secretary was also heard. He stated that the Board has no authority to postpone the generalbody once called. He further stated that the action of the Board in this regard is ultravires."

That shows how far he was interested in holding the meeting that was called to 10-9-1972. When viewed in this background the testimony of MW3 that Shri John deputed him to collect signatures for calling a meeting to pass a nonconfidence motion against the elected representatives can be believed. So item No. IV of the charge stands established.

20. Item Nos. I and II of the charge cover the common allegation that Shri John failed to implement the directions of the Director Board to give publicity to its resolution dated 4-9-1972 to cancel the meeting that was called to 10-9-1972. That aspect covered by item Nos. I and II can be considered together. The then President of the Society is no more. MWs. 2 and 5 were two of the Directors belonging to the majority group that won the election. Both these witnesses have given evidence that Shri John did not publish the resolution cancelling the meeting proposed to be held on 10-9-1972 on the notice board on 4-9-1972, the date of the resolution itself and that he did not take timely action to have the resolution published in the papers. Shri John in his evidence as WW1 states that he complied with the direction. It is the admitted case that the publication in the Mathrubhoomi Daily appeared on its issue dated 7-9-1972 and that it happened at the instance of Shri John. The complaint is that Shri John did not take immediate steps to see that the publication appeared in the papers on 6-9-1972 itself. MWs. 2 and 5 have given evidence that Shri John purposely delayed the matter and because of the urgency they along with the then President did what was necessary to

effect the publication in the Express Daily so as to appear it atleast in the issue dated 7-9-1972. Shri John had also admitted in his evidence and the pleadings that the President went to the Express Newspaper's Office at Trichur on the 6th of September 1972 to give the publication and he had left the matter there only because the President had undertaken the trouble of doing so. In view of the attitude taken up by Shri John in A.R.C. 91/72 one cannot expect Shri John to be vigilant in giving publicity to the resolution dated 4-9-1972. If as a matter of fact Shri John had taken timely action then there was no necessity for the President and MWs. 2 and 5 to directly involve themselves in seeing that the publication is effected. But the delay in this matter was not of any serious consequences as the meeting was proposed to be held only on 10-9-1972. An argument is advanced on behalf of the Society that Shri John was purposely delaying publication on the hope that an injunction against implementation of the resolution dated 4-9-1972 can be obtained in A.R.C. 91/72. But that case came up for hearing only on 7-9-1972 as could be seen from Ext. M35 order. Shri John admittedly had made arrangements for publication in the Mathrubhoomi of 6-9-1972 itself. In these State of affairs the delay cannot be treated as a misconduct. Similarly the failure to publish the notice on the Notice Board on 4-9-1972 itself, if at all it was not done, cannot also be treated as a misconduct. So that part of the allegations against Shri John is not available as a misconduct meriting punishment.

21. Under item No. II of the charge there is an allegation that Shri John assaulted the President and abused the President and the Director Board Members including MWs. 2 and 5 in the office of the Society on 6-9-1972. MWs. 2 and 5 have given uniform versions that they along with the President went to the Society on that day to prepare a draft for the publication in the papers and that Shri John snatched away the letter pad and official seal of the Society from the possession of the President, pushed the President by force and used abusive language against them. These witnesses are corroborated on this aspect by MW4 who is a Member of the Society. There is nothing in the evidence of these witnesses from which it could be said that what they swear is not the truth. Of course WWs. 1 to 3 have given evidence that nothing in particular happened in the office on that day. But all the three witnesses are persons who have been dismissed by the Society and they naturally have every reason to state so. From the circumstances that prevailed it is only probable for the President and the Board Members to have attempted to see that the publications were effected in time when the Secretary was adopting a negative attitude. As already mentioned the Secretary was adopting a hostile attitude and the probability is for him to have attempted to prevent the President and the Board Members from proceeding with their effort to see that their resolution is implemented. In these state of affairs the allegation that he assaulted the President and used abusive language against the President and the Board Members stands proved by the available evidence. I find that Shri John is guilty of that misconduct.

22. Now we come to item No. III of the charge. There is nothing wrong in Shri John having issued a certified copy of the resolution to Shri Devassy. But the allegation that he took up an attitude against the interest of the Society in Ext. M35 case stands proved by the evidence available in Ext. M 35 itself. The Arbitrator also is seen to have observed that the attitude adopted by Shri John was rather surprising. He was definitely not taking a stand supporting the resolution of the Director Board. On the other hand he was opposing it. So the allegation that he was acting against the interest of the Society in the arbitration case is well founded. Shri John is guilty of that misconduct also.

23. There is no basis for the allegation which is the subject matter of the item No. V of the charge. It is the admitted case that the apprentices were selected by the Director Board. All that he did was to admit them to duty. That cannot be treated as an unauthorised action. So that is not a misconduct at all.

24. *Item No. VI*:—There is no acceptable evidence in support of the allegation that Shri John had used his own car and appropriated excessive hire charges for the business of the Society. Shri John denies having had his own car. But the Society had produced some document to show that he was actually in possession a car. But those documents are not properly proved in evidence and it is unnecessary to consider them in further detail. Hence this allegation also is not properly proved. I find him not guilty of this charge.

25. *Item No. VII* —The allegation that Shri John absented without leave and thereby behaved in an irrespective manner stands without any evidence wha soever. So that misconduct also is not proved. He is acquitted of that charge also.

26. The position regarding item No. VIII of the charge is also the same as in the case of item No. VII. So I find him not guilty of that charge also.

27. *Item No. IX.*—MW2 states that Shri John did not prepare and submit the monthly statements in time. There is only his evidence on this aspect whereas Shri John has given evidence that he was vigilant in the matter of preparation of statements. The oral evidence of MW2 alone is insufficient to hold Shri John guilty of the allegation. He is, therefore, not guilty of this charge as well.

28. Item No. X of the charge concerns the failure of Shri John to hand over the charge of the Secretary to Smt. Lathika even though he was directed to do so by the Director Board. It is admitted that he was directed to hand over charge. It is further admitted that he did not hand over charge. The excuse is that he was on leave. But Shri John has no case that he was physically incapable of attending office to hand over charge. The fact that he was on leave is no justifiable reason to refuse to hand over charge when he was placed under suspension. So this misconduct can be held as proved. I do so.

29. Item No XI relates to the sale of an oil engine. It is the admitted case that the oil engine was disposed of after the paper Publication Ext. M72 inviting tenders. Exts. M69 and M70 tenders were admittedly submitted in response to Ext. M72 Publication. Of the two Ext. M69 had quoted the higher price of Rs. 4,501. The sale was concluded in favour of Ext. M69 tenderer. One complaint of the Society is that that Ext. M72 paper did not have wide publicity and the publication was made in that paper with the calculated idea to have the leas publicity. But still it is seen that two tenders were admtittedly received. According to the Society there was yet another tender and the same was suppressed. That tender is stated to be Ext. M71 said to have been submitted by MW6. According to Shri John Ext. M71 was not received by him and the same was fabricated subsequently to raise a false charge. Of course MW6 had given evidence that he had presented Ext. M71 within time before Shri John. But if Shri John had purposely suppressed that tender, then it is not known as to how it was available with the Society to be produced in this Court. In all probability Ext. M71 would have been destroyed by Shri John if he had purposely suppressed the same. When viewed in this background it is not safe to act on the testimony of MW6 that he had presented Ext. M71 before Shri John within time. So the allegation that he purposely suppressed Ext. M71 after having received it in time cannot be accepted as true. There is also a case for the Society that Ext. M72 publication and the sale that followed were without the sanction of the Director Board. But it is admitted that the Irrigation Sub-committee of the Society which includes Director Board Members had recommended the sale. The oil engine admittedly was out of use when electric supply was provided for irrigation purposes. So the Society did not want to retain the engine. The engine admittedly was sold for an amount higher than its original value. In these state of affairs the allegation that he deliberately concluded the sale without proper sanction with a view to cause loss to the Society does not appear probable and genuine. So I find that Shri John is not guilty of this charge also.

30. Now I have again to advert to the complaint of Shri John that he was victimised. It is true that the new Board was not happy with the attitude of Shri John. Naturally, the Board did not want to keep Shri John in the services under them as he was adopting a hostile attitude. There may be an element of victimisation. But the circumstances revealed in evidence indicate that any employer would have initiated action against such an employee. The fact that some at least of the charges are established is sufficient to say that Shri John was not innocent. So he cannot claim himself to be an innocent victim. So the criticism that the action of the Board lacks bona fides and the intention was only to victimise the emyloyee cannot be accepted.

31. Now remains the complaint of Shri John that he was dismissed without obtaining sanction of the Conciliation Officer when the conciliation was pending before the Deputy Labour Officer. The dismissal [illegible] Ext. W9 is a notice dated 8-10-1973 issued by the

Deputy Labour Officer, Trichur to the Society and the Secretary of the Kerala Co-operative Employees Federation proposing to hold a joint conference of the parties concerning the dispute relating to the suspens on of Shri C. J. John on 17-10-1973. Ext. W9 is a copy of the complaint filed by the Secretary of the Union before the Deputy Labour Officer on the basis of which Ext. W8 was issued. Ext W9 is dated 3-9-1973. The argument is that the Deputy Labour Officer in his capacity as the Conciliation Officer was seized of the matter and the dismissal effected during the pendency of the conciliation without permission for approval is invalid and ineffective. The answer of the Society is that no conciliation as such was pending even though Ext. W8 notice was issued. According to the Society the notice was only an intimation issued on the basis of the complaint and the Conciliation Officer had not initiated conciliation proceedings.

32. Ext. W8 is not a statutory notice. It gives the subject as suspension of Shri C. J. John. The reference given is Ext. W9 complaint of the Union. The notice is to the following effect:—

> "It is proposed to hold a joint conference of the parties to the above dispute at 2 p. m. on 17-10-1973 in this office. I request you to be present for the same."

Rule 10 of the Kerala Indsutrial Disputes Rules, 1957 is to the following effect:—

> "Where the Conciliation Officer receives any information about an existing or apprehended industrial dispute which does not relate to public utility service and he considers it necessary to intervene in the dispute, he shall give formal intimation to the parties concerned declaring his intention to commence conciliation proceedings with effect from such date as may be specified therein."

Ext. W8 cannot be treated as a notice issued in accordance with the above rule. The notice does not say that the conciliation proceedings will take effect from any specified date. There is nothing else to show that the Conciliation Officer had commenced conciliation proceedings on any day before the date of dismissal. In these state of affairs it cannot be said that the dismissal occurred during the pendency of a conciliation proceedings. Even otherwise the failure to obtain permission of the Conciliation Officer for the dismissal by itself does not make the punishment abinitio void. The Management may be liable for the penalty prescribed for the violation or the affected employee can initiate proceedings under Sec. 33-A of the I. D. Act if there is in fact a violation. So in any event the objection that the dismissal is invalid for want of permission of the Conciliation Officer cannot now be sustained.

33. Now remains the question as to whether there are any reasons for interference with the punishment and to grant reliefs to the workman using my discretion provided under Section 11-A of the Industrial Disputes Act. According to the learned counsel appearing on behalf of the employee the charges are all trivial and the punishment of dismissal is disproportionate to th gravity of the allegations. On the other hand the argument for the Management is that Shri John who had been working against the interests of the Society really deserves the punishment of dismissal especially because he is seen to have flouted the directions of the Director Board and assaulted and abused the President and the Members. It is also argued by the learned counsel that Shri John was arrogating to himself powers exceeding his authority as the Secretary and he had revolted when the new Director Board asserted powers vested in it.

34. There are indications in evidence from which it can be said that Shri John was handling the affairs of this Society as though he was all powerful. It is admitted by him in his evidence that he resigned the post of the Secretary became its President and remained as such from 13-4-1962 to 20-9-1963. It is further admitted by him that he presided over the Director Board meeting on 30-12-1969. The minutes of that meeting appears at page 185 of Ext. M81 minutes book. In that meeting the resignation of the then President Shri K. T. Antony was accepted and on the same day he (The President) was appointed as a Lineman of the Society. It is not known as to how Shri John could preside over the Director Board when he was the paid Secretary. The above circumstances indicate that Shri John was managing the affairs of the Society in his own way. While he was doing so the new Director Board came into power. The circumstances indicate that Shri John belonged to the opposite camp. Right from the beginning he was working against the new Director Board. He is seen to have adopted an arrogant attitude towards the new Director Board even in his written explanations Exts. M44 and M46. He states therein that the Director Board or the President have no authority to take decisions concerning him and to ask for his explanation. He even assaulted the President. His case is that he was not prepared to dance to the tune of the Director Board and therefore it had raised the false allegations against him. As a matter of fact shri John was revolting against the Director Board because it was not prepared to dance according to his tunes. Such a person cannot be entrusted with any responsible position in a Co-operative Society where co-operation from all concerned is the primary ingredient required for the prosperity and well being of the institution. So the Society cannot be asked to continue to entertain Shri John as the Secretary. But this is a case where Shri John had served the Society for a fairly long time in various capacities. So I feel that he should be given benefits for the services rendered for which the dismissal in the circumstances can be converted into one of discharge. So his dismissal is converted into one of discharge. The discharge will take effect on 27-11-1973, the date on which he was dismissed. But his services will be counted only from 20-9-1963, the date on which he became the Secretary after the break of

1½ years during which time he was the President. The Society is directed to pay him his benefits as though he was discharged as indicated above. The benefits are to be paid by the Arimbur Service Co-operative Bank which is the amalgamated successor of the Management Society.

35. In the result awards are passed directing reinstatement of Smt. C. P. Lathika and converting the dismissal of Shri C. J. John into one of discharge as indicated above.

Ernakulam, N. SUKUMARAN,
18-8-1982. *Presiding Officer.*

ANNEXURE

In the Labour Court, Ernakulam

Dated this the 4th day of November, 1981

Present :

SHRI N. SUKUMARAN, B.SC., B. L.,

Presiding Officer

In

INDUSTRIAL DISPUTE No. 3 OF 1978

Between

The President, Arimbur Service Co-operative Society Limited No. 728, Arimbur, Trichur District

And

The Workman of the above concern Smt. C. P. Lathika, w/o. Kaniyamparambil Karthikeyan, Chelakottukara, Trichur-5

Representations:

Shri M. Venugopalan, Advocate, Trichur-1. .. For *Management*.

Shri N. P. Samuel, Advocate, Trichur-3. .. For *Workman*.

ORDER

Smt. C. P. Lathika was a Clerk of Arimbur Service Co-operative Society Limited, hereinafter referred to as the Society. She was dismissed and the correctness of the same is challenged by her. The stand taken up by the Society is that Smt. Lathika and the then Secretary were in charge of manure and insecticides in which also the Society was dealing and that huge sums of money were misappropriated by those two in charge in the years 1971-72 and 1972-73. According to the Society the guilt of. Smt. C. P. Lathika was very well established in a properly conducted domestic enquiry. The contention of Smt. Lathika is that she is innocent of the charges and that she was not given sufficient opportunities to establish that innocence. It is the admitted case that the domestic enquiry held by an Advocate for that purpose was ex parte.

2. In view of the rival contentions the validity of the domestic enquiry was tried as a preliminary issue. The file relating to the domestic enquiry is Ext. MI. This is marked on admission even without examination of the Enquiry Officer. Arguments were heard on the facts revealed by Ext. M1 file and also on the basis of Ext. W1 series produced and marked on the side of the workman.

3. It is common case that a charge was framed and served on Smt. Lathika. That charge was dated 18-2-1974. She filed her explanation on 23-3-1974. The explanation did not find favour with the Management. So a domestic enquiry was ordered. The Advocate appointed as the Enquiry Officer proposed to conduct the enquiry on 5-5-1974 for which Smt. Lathika had accepted notice sent by registered post. She did not appear on that day. Instead she applied for time on 2-5-1974. The enquiry was adjourned on this application to 30-5-1974. A fresh notice regarding that posting was sent to her on 23-5-1974. She accepted the notice but again applied for two more weeks on the ground of illhealth. That request was also granted by the Enquiry Officer and the enquiry was adjourned to 12-6-1974. Notice of that posting issued by registered post was received by her on 8-6-1974. But she did not appear on 12-6-1974. The proceedings of the Enquiry Officer states that there was no application for adjournment or any other representation on behalf of the employee and therefore the enquiry was held ex parte on that day. The report is seen to have submitted the next day. The above facts are admitted and are also clear from the documents available in Ext. M1.

4. What is stated by Smt. Lathika in her claim statement is that she had applied for adjournment of the enquiry from 12-6-1974 as per letters simultaneously addressed by registered post to the Society and the Enquiry Officer on 10-6-1974. Ext. W1 series contain two postal receipts evidencing the fact that postal articles were addressed to the Secretary of the Society. and the Enquiry Officer by Smt. Lathika on 10-6-1974. There are two postal acknowledgements from which it can be seen that those articles had been received by the Secretary and the Enquiry Officer on 18-6-1974 and 17-6-1974 respectively. The allegation that an application for adjournment supported by a medical certificate was enclosed in the postal article addressed to the Enquiry Officer with copy to the Society is not disputed before me. The only argument on behalf of the Society is that the application for adjournment was received long after the enquiry was concluded and the report filed.

5. From the admitted facts it is clear that the employee's request for adjournment on the ground of her illness was accepted as genuine by the Enquiry Officer on earlier occasions and the enquiry adjourned from time to time for that reason. It is noticed that applications sent by registered post three days prior to the date of the enquiry were received by the Enquiry Officer on the previous occasions. So the employee must naturally have thought that the application sent on 10-6-1974 by registered post will be received in time for adjourning the enquiry from 12-6-1974. She had also furnished a medical certificate in support of the ground for adjournment.

Unfortunately for her the particular application is seen to have been received only on 18-6-1974. It must have been due to extraordinary circumstances beyond the control of the employee The employee had done all that was wit in her means to intimate the Enquiry Officer of her inability to appear. In these state of affairs it cannot be said that there was any wilful abstention from the enquiry by the employee. There is nothing to infer that she purposely wanted to protract the enquiry. In these state of affairs it has to be said that the workman did not have a legitimate opportunity to defend herself. So the enquiry cannot be held proper. It is unnecessary to consider the merits of the case at this stage in view of this conclusion. In the result it is hereby found that there was no proper domestic enquiry. The Management certainly will be at liberty to attempt to substantiate its case before this court by fresh evidence if so advised.

Dictated to the Confidential Assistant, transcribed and typed out by him, corrected by me and declared in open Court on this the 4th day of November, 1981.

N. SUKUMARAN,
Presiding Officer.

Appendix

Witnesses examined on the Managements side:

MW1 .. Sri Madhavan, C.
MW2 .. ,, Krishnan Nair.
MW3 .. ,, M. V. Anthony.
MW4 .. ,, Appukuttan Nair, M.
MW5 .. ,, C. A. Ouseph.
MW6 .. ,, K. C. Samu.
MW7 .. ,, N. Achutha Menon.

Witnesses examined on the Workman's side:

WW1 .. Sri John, C. J.
WW2 .. Smt Lathika, C. P.
WW3 .. Smt. Thresiakutty George.

Exhibits marked on the side of the Management:

Ext. M1 .. File relating to the domestic enquiry.
,, M1(a) Explanation of Baby dated 2-5-1974 regarding the deficiency in stock of manure & pesticides (in Ext. M1 file)
,, M1(b) Explanation of Smt. K. A. Thresiakutty dated 2-5-1974 regarding the deficiency in the stock of manure and pesticides (in Ext. M1 file)
,, M1(c) Deposition of Smt. K. A. Thresiakutty in the Domestic Enquiry (in Ext. M1 file)
,, M1(d) Copy of suspension order dated 17-12-1973 issued to Smt. Lathika, C. P. (Ext. M1 file)

Ext.	M1(e)	Copy of the decision No. 9 of the committe of the Society dated 16-12-1973 (Ext. M1 file)
,,	M1(f)	Statement of Stock of manure and pesticides handed over to the Secretary by Smt. C.P. Lathika on 18-12-1973 (in Ext. M1 file)
,,	M1(g)	Charge dated 18-2-1974 against Lathika.
,,	M2 ..	Day book of the Manure for the period from 2-2-1972 to 8-12-1972
,,	M3 ..	Day book for the period from 11-12-1972 to 7-2-1974.
,,	M4 ..	Stock Register of manure & pesticides from 1-7-1970.
,,	M4(a)	Page 28 of Ext. M4.
,,	M4(b)	Page 30 of Ext. M4.
,,	M5 ..	Liability Register oi Manure and pesticide, from 4-9-1969.
,,	M6	Minutes book of the Board meeting of Society from 7-3-1973.
,,	M7 ..	Day book of the Society from 6-11-1971 to 8-5-1972.
,,	M8 ..	Day book of pesticides from 27-3-1968.
,,	M9 ..	Carbon bill book (starting from Bill No. 1301 dated 8-4-1972).
,,	M9(a)	Bill No. 1382 dated 14-8-1972 (in Ext. M9)
,,	M9(b)	Bill No. 1386 dated 4-9-1972 (in Ext. M9)
,,	M9(c)	Bill No. 1399 dated 8-12-1972 (in Ext. M9)
,,	M9(d)	Bill No. 1323 dated 5-6-1972 (in Ext. M9)
,,	M10 ..	Carbon cop of the bill book (starting from Bill No. 601 dated 19-12-1972)
,,	M10(a)	Bill No. 601 dated 19-12-1972 (in Ext. M10)
,,	M10(b)	,, 602 ,, (,,)
,,	M11 ..	A statement (carbon copy) showing the stock position of manure and pesticides as on 30-6-1972.
,,	M12 ..	A statement showing the stock position of manure and pesticides in the Godown and the agents as on 30-6-1972.
,,	M12(a)	A verification certificate showing the stock position of manure and pesticides signed by the Secretary.
,,	M13 ..	A stock statement of manure and pesticides as on 30-6-1973.
,,	M14 ..	A copy of memo dated 12-12-1973 issued to C. P. Lathika regarding the deficit stock of manure and pesticides.
,,	M15 ..	Explanation of Smt. C. P. Lathika dated 12-12-1973.
,,	M16 ..	A communication dated 13-12-1973 from Smt. C. P. Lathika in continuation of her explanation 12-12-1973.
,,	M17 ..	Stock statement of manure and pesticides as on 30-6-1973 signed by C. P. Lathika.

Ext.	M18 ..	Copy of a decision of the Society authorising Smt. C.P. Lathika to take charge of the Secretary and the endorsement on it showing the charge taken over by her on 7-3-1973.
,,	M19 ..	'Padukurippu' Register from 17-2-1973.
,,	M19(a)	Page 27 of Ext. M19.
,,	M20 ..	Charge list dated 9-11-1973.
,,	M21 ..	Invoice dated 30-12-1971.
,,	M22 ..	Voucher No. 275/72 dated 11-2-1972 for Rs. 6,856
,,	M23 ...	Stamped receipt for Rs. 6,886 dated 12-2-1972 issued by E. I. D. Parry Ltd.
,,	M24 ..	Voucher No. 279/79 dated 15-2-1972 for Rs. 7,000.
,,	M25 ..	Stamped receipt for Rs. 7,000 dated 18-2-1972 issued by E.I.D. Parry Ltd.
,,	M26 ..	Invoice dated 15-3-1972 for Rs. 3598.56.
,,	M27 ..	Invoice for Rs. 3482.87 dated 15-3-1972 from Rallis India Ltd.
,,	M28 ..	General Ledger of manure from 1-10-1970.
,,	M29 ..	Audit certificate for the year 1972-1973.
,,	M30 ..	Audit certificate of the society for the year 1971-1972.
,,	M31 ..	List of articles handed over charge on 18-12-1973.
,,	M32 ..	Stock statement of manure and pesticides as on 30-6-1973.
,,	M33 ..	A petition dated 10-1-1974 submitted before the Deputy Registrar of Co-operative Societies by the society against Sri John and Smt. Lathika.
,,	M34 ..	A notice of Extra General Body Meeting of the Society dated 23-8-1972.
,,	M35 ..	Certified copy of the order of the Assistant Registrar of Co-operative Societies in IA (R) 92/72-73 in ARC (R) 91/72-73 dated 7-9-1972.
,,	M36 ..	A notice dated 5-9-1972 informing the adjournment of the General Body Meeting.
,,	M37 ..	A notice published in the Malayalam Daily 'Express' dated 7-9-1972 informing the members of the Society adjourning the General Body Meeting
,,	M38 ..	Copy of the order of the Asst. Registrar of Co-operative Societies in IA (R) 92/72-73 in ARC (R) 91/72-73 dated 7-9-1972.
,,	M39 ..	Day book of the society from 8-5-1972 to 14-6-1973.
,,	M39(a)	Page 135 of Ext. M39
,,	M39(b)	Page 165 of Ext. M39.
,,	M39(c)	,, 166 ,,
,,	M39(d)	,, 191 ,,
,,	M39(e)	,, 201 ,,
,,	M39(f)	,, 202 ,,
,,	M39(g)	,, 108 ,,
,,	M39(h)	,, 110 ,,

Ext	M40 ..	Voucher No. 114 dated 11-7-1972 for Rs. 70
,,	M40(a)	,, 128 dated 12-7-1972 for Rs. 75
,,	M40(b)	,, 144 dated 13-7-1972 for Rs. 45
,,	M40(c)	,, 354 dated 2-8-1972 for Rs. 75
,,	M40(d)	,, 546 dated 29-8-1972 for Rs. 35
,,	M41 ..	Carbon copy receipt book (starting from R. No. 101 dated 25-1-1973 to 4-4-1973).
,,	M42	Copy of decision No.3 of the Committee meeting held on 7-3-1973.
,,	M43 ..	Charge memo dated 30-10-1972 issued to Sri C. J. John
,,	M44 ..	Copy of the explanation submitted by the Secretary to the President on 3-11-1972.
,,	M45 ..	Copy of a show cause notice dated 11-11-1972 issued to Sri C. J. John.
,,	M46 ..	Copy of explanation dated 16-11-1972 submitted by the Secretary to President.
,,	M47 ..	Copy of decision No.3 of the committee meeting held on 27-4-1973.
,,	M48 ..	Copy of decision No.4 of the committee meeting held on 27-4-1973.
,,	M49 ..	Copy of communication dated 3-4-1973 addressed to the Secretary of the society.
,,	M50 ..	Copy of the decision No.7 of the committee meeting held on 27-4-1973.
,,	M51 ..	Byelaws of the society.
,,	M52 ..	Copy of decision No. 5 of the committee meeting held on 27-4-1973.
,,	M53 ..	Copy of decision No. 15 of the committee meeting held on 30-5-1973.
,,	M54 ..	Notice of the Enquiry Commissioner dated 21-5-1973.
,,	M55 ..	Postal receipts four in number dated 22-5-1973.
,,	M56 ..	Postal acknowledgement signed by the Deputy Registrar dated 23-5-1973.
,,	M56 (a)	Postal acknowledgement signed by the Secretary of the Society dated 23-5-1973.
,,	M56 (b)	Postal acknowledgement signed by C. J. John dated 24-5-1973.
,,	M57 ..	Telegram dated 25-5-1973 from C. J. John dated 24-5-1973.
,,	M58 ..	Copy of notice dated 28-5-1973 from C. J. John to Sri T. A. Varkey.
,,	M58 (a)	Postal acknowledgement signed by Sri C. J. John on 4-6-1973.
,,	M58 (b)	Postal acknowledgement signed by the Secretary of the Society on 30-5-1973.
,,	M58 (c)	Postal receipts two in numbers.
,,	M59 ..	Copy of notice dated 4-6-1973 issued by the Enquiry Commissioner.

Ext.	M59 (a)	Postal acknowledgement signed by the Secretary of the Society on 6-6-1973.
,,	M59 (b)	Postal receipts dated 5-6-1973 two in numbers.
,,	M59 (c)	Certificate of posting of a letter addressed to C. J. John.
,,	M60 ..	Copy of notice dated 18-6-1973 issued by the Enquiry Commissioner.
,,	M61 ..	A notice published in the Malayalam Daily Express dated 24-6-1973 regarding the domestic enquiry scheduled to be held on 30-6-1973.
,,	M62 ..	Copy of a notice dated 25-6-1973 issued by the Enquiry Commissioner.
,,	M62 (a)	Certificate of posting of 2 articles addressed to the Secretary of the Society and Sri C. J. John.
,,	M63 ..	Copy of a notice dated 7-8-1973 issued by the Enquiry Officer.
,,	M63 (a)	Certificate of posting of two articles addressed to the Secretary of the society and C. J. John.
,,	M63 (b)	Postal receipt.
,,	M63 (c)	A registered letter addressed to C.J. John returned unserved.
,,	M64 ..	A note signed by Sri C. J. John on 6-9-1972 regarding an arbitration case.
,,	M65 ..	Voucher No.1069 dated 13-11-1971 for Rs.5
,,	M65 (a)	Voucher No.1209 dated 22-11-1971 for Rs.5
,,	M65 (b)	Voucher No.1313 dated 6-12-1971 for Rs.5
,,	M65 (c)	,, 1354 dated 13-12-1971 for Rs.5
,,	M65 (d)	,, 1546 dated 9-1-1972 for Rs.5
,,	M65 (e)	,, 1676 dated 29-1-1972 for Rs.5
,,	M65 (f)	,, 2117 dated Nil for Rs.5
,,	M65 (g)	,, 2356 dated 17-4-1972 for Rs.5
,,	M65 (h)	,, 2483 dated 9-5-1972 for Rs.5
,,	M65 (i)	,, 2591 dated 23-5-1972 for Rs.5
,,	M65 (j)	,, 2730 dated 5-6-1972 for Rs.5
,,	M65 (k)	,, 2907 dated 24-6-1972 for Rs.5
,,	M66 ..	Certified copy of Judgement of the Kerala High Court in O.P. 3268/74.
,,	M67 ..	Explanation submitted by Lonappan Anthony dated 26-4-1974 regarding the deficiency in the stock of Manure and Pesticides
,,	M68 ..	Copy of the statement filed by Sri C. J. John in ARC 1243/1974.
,,	M69 ..	A tender dated 19-2-1973 from M/s John & Sons Foundary and Engineering Works regarding the sale of Oil Engine.
,,	M70 ..	A tender dated 19-2-1973 from Sri Kochuvareed regarding the sale of Oil Engine.
,,	M71 ..	A (Tender) letter dated 19-2-1973 from M/s K. C. Samu regarding the sale of Oil Engine.

Ext. M72 .. Tender notice published in Malayalam Daily 'Jayakahalam' inviting tenders for the purchase of Oil Engine.

" M73 (Series 24 in numbers) Vouchers of the Society for the period between 31-7-1972 to 13-10-1972 for various amounts.

" M74 .. Award of the Arbitrator in ARC (R) 833/74 dated 29-3-1982.

" M75 .. Certified copy of the judgment of the Kerala High Court in O. P. No. 1270/73.

" M76 .. Receipt dated 21-7-1970 for Rs. 500 from N. S. K. Agencies, Trichur.

" M77 .. A receipt dated 14-7-1970 for Rs. 10 from Ponkunnam Service Station issued to Sri C. J. John.

" M78 .. Certified copy of order of the Asst. Registrar of Co-operative Societies in ARC (R) 833/74.

" M79 .. Certified copy of the judgment of the Kerala High Court in O. P. No. 1430/75.

" M80 .. A letter dated 15-3-1973 from Sri C. J. John to the Secretary of the Society with a copy of the Order of Joint Registrar of Co-operative Societies dated 14-3-1973.

" M81 .. Minutes book of the Society from 20-4-1965.

" M82 .. Letter dated 3-4-1973 from Sri C. J. John to the Secretary of the Society.

" M83 (a) A letter dated 28-4-1973 from the Society to Sri C. J. John.

" M83 (b) Postal acknowledgement signed by Sri C. J. John on 30-4-1973.

" M83 (c) Postal acknowledgement signed by Sri C. J. John on 30-4-1973.

" M84 .. A page dated 24-4-1970 in a Diary of the FACT for the year 1970.

" M85 .. Explanation submitted by Sri C. J. John on 3-11-1972 to the Society.

" M86 .. Copy of a judgment of the High Court in O. P. Nos. 2574 and 2720 of 1974.

Exhibits marked on the side of the workman :

Ext. W1 .. Postal receipt dated 19-6-1974 for a letter addressed to the Secretary of the Society.

" W1 (a) Postal receipts dated 19-6-1974.

" W1 (b) Postal acknowledgement dated 18-6-1974 signed by Smt. C. P. Lathika.

" W1 (c) Postal acknowledgement dated 17-6-1974 signed by Sri C. J. John.

" W1 (d) Copy of Medical Certificate dated 10-6-1974 issued to Smt. C. P. Lathika.

" W2 .. Byelaws of the society.

Ext.	W3 ..	Report of handing over charge of the Secretary by Smt. Lathika, to Sri K. K. Ravindran on 12-3-1973.
,,	W4 ...	Copy of the decision No. 11 of the committee meeting held on 7-3-1973.
,,	W4 (a)	Direction of the President dated 12-3-1973 to hand over charge of the Secretary to Sri K. K. Ravindran.
,,	W5 ..	A letter from the Circle Officer of Co-operative Societies dated 2-8-1973 to the Registrar of Co-operative Societies regarding allegations against the Society Board.
,,	W6 ..	Certified copy of the Judgment of the Special Judge, Trichur in Criminal case No. 32/1975.
,,	W7 ..	Certified copy of Judgment of the Special Judge, Trichur in Criminal Case No. 33/75.
,,	W8 ..	A letter dated 8-10-1973 from the Deputy Labour Officer to the President of the Society convening joint conference of parties.
,,	W9 ..	Copy of a statement submitted before the District Labour Officer, Trichur by the Secretary, Trichur Taluk Committee Kerala Co-operative Employees Federation.
,,	W10 ..	Copy of an explanation from Smt. C. P. Lathika to the Secretary of the Society to the show cause notice dated 18-2-1974.
,,	W11 ..	Copy of an explanation dated 4-3-1974 from Smt. C. P. Lathika to the Secretary of the Society regarding the payment of shortage in the account of sales of manure and pesticides.
,,	W12 ..	Copy of A. R. C. No. 291/74 filed by Smt. C. P. Lathika before the Asst. Registrar of Co-operative Societies, Trichur.

GOVERNMENT OF KERALA

Labour (A) Department

NOTIFICATION

G. O. (Rt.) No. 724/82/LBR. *Dated, Trivandrum, 9th July* 1982.

The award of the Labour Court, Ernakulam in respect of the dispute between the Management of Mekkadambu Service Co-operative Society No. 4073, P.O. Mekkadambu, Moovattupuzha and the workman of the above Society Shri C.P. Abraham, s/o. Poulose, Cherukarakudiyil, Mekkatambukara, Valakom Village, Muvattupuzha received by Government on 28-6-1982 is hereby published under section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,
K. SIVADASAN,
Deputy Secretary to Government.

In the Labour Court, Ernakulam
Dated this the 18th day of June 1982.

Present:

SHRI N. SUKUMARAN, B.SC., B. L.,

Presiding Officer

In

INDUSTRIAL DISPUTE No. 348/1979

Between

Mekkadambu Service Co-operative Society No. 4073, P.O., Mekkadambu, Moovattupuzha

And

The workman of the above Society Shri C.P. Abraham, s/o. Poulose, Cherukarakudiyil, Mekkatambukara, Valakom Village, Moovattupuzha.

Representations:—

M/s. Thampan Thomas & Associates, Advocates, Cochin-11 .. For *Management*

Shri K. Ramakumar, Advocate, Ernakulam .. For *Workman*

CA 138/S.

AWARD

The issue referred for adjudication by Government as per G. O. (Rt.) No. 1656/79/L&H dated 20-11-1979 is "Denial of employment to Shri C. P. Abraham, Clerk from Mekkadambu Service Co-operative Society".

2. There is no Union espousing the cause of the workman. In other words this s an individual reference. The workman in his claim statement states that he was appointed as an employee of the Management Society with effect from 24-2-1977 and that he had continuously worked till 24-12-1977. His complaint is that his services were terminated without any reason abruptly on 24-12-1977. The termination, according to him, is illegal. Therefore he is to be reinstated.

3. The Management contends as follows:-

The reference is bad and it is not maintainable. The workman was not continuously employed as claimed by him. He was given work on a casual basis during the interval for a few days. He cannot claim to be a permanent employee. Hence he is not entitled to the reinstatement claimed.

4. The evidence consists of the testimony of WW1, WW2, MW1 and Exts. M1 to M4.

5. The main dispute is as to whether Shri Abraham was a permanent employee or a casual worker. Though the reference describes him as a Clerk Shri Abraham in his statement does not claim that he was a Clerk. However in his evidence as WW1 he says that he was doing clerical and other manual work. It is admitted by him that he was not issued any appointment orders. It is further admitted that he was not qualified to be appointed as a Clerk. It is also admitted by him that there is no resolution of the Society authorising his appointment. He was not paid on monthly basis as in the case of other employees. What was paid to him was daily wages as could be revealed from Ext. M3 series and Ext. M4 series vouchers and Exts. M1 and M2 ledgers maintained in the Society. WW2 is a Clerk of this Society. He has given evidence in the chief examination that Shri Abraham was doing the work of a Clerk as well as other works. In cross-examination he was asked as to whether Shri Abraham was employed in connection with cashew business carried on by the Society. Then he said that he had other works also. Shri Abraham did not call upon the Society to produce any particular record maintained by him in his capacity as a Clerk. If he was serious about his contention that he was a Clerk it was easy for him to ask for the production of documents maintained by him. The failure to do so is significant. In these stae of affairs the claim of the Society that Shri Abraham was employed only for doing other manual work has to be accepted especially in view of the fact that he was paid only on a daily wages basis when as a matter of fact the other regular employees were paid salary on monthly basis. The absence of a resolution of the Director Board of the Society authorising appointment and the want of an appointment order are all important and it is easy to say in the circumstances that Shri Abraham was employed only on a casual basis as a daily wages employee.

6. But the fact that Shri Abraham was employed on a daily wages basis to do manual work does not mean that he is not a worker entitled to the benefits as per the provisions of the Industrial Disputes Act. Exts. M3 series and M4 series vouchers maintained in the Society and produced by it indicate that he did work in the same calendar year for 240 days. The Society has a case that three of the vouchers are not genuine and they were manipulated in order to show that Shri Abraham had completed 240 days of work. MW1, the present Secretary of the Society, swears that the vouchers among Exts. M3 and M4 series for 30-9-1977, 20-11-1977 and 21-11-1977 were maintained for days on which Shri Abraham did not work. To show that he did not work on those three days reliance is placed on Exts. M1 and M2 ledgers were the payments as per these three vouchers are not entered. The basic document for preparation of ledgers is the cash book or day book. Those documents are not produced. It may be that there is omissions in the ledgers and therefore the Society cannot now argue that the vouchers are not genuine. It is said that 20-11-1977 was a Sunday and 21-11-1977 was some other holiday. According to the Society it was impossible for an employee to work on Sundays and holidays. But MW1, the present Secretary, had no direct knowledge as to what had happened on the disputed days. The Society was possessed of Exts. M3 and M4 series of vouchers. It is said that the then President who is a close relation of Shri Abraham caused the manipulations. But there is only a suggestion to that effect. Someone who had real direct knowledge regarding the developments should have been examined to say that actually there were no transactions involving Shri Abraham on the disputed dates. In the absence of concrete evidence the documents Exts. M3 and M4 seen to have been maintained in the ordinary course of business have to be given due importance and weight. When that is the position Shri Abraham had completed 240 days of work in one year. So he is a worker. His services were terminated. The termination amounts to a retrenchment for which due formalities are to be observed. No formalities have been observed in the case of Shri Abraham. So the termination is ineffective.

7. Now remains the question as to what relief Shri Abraham is entitled. It is admitted by Shri Abraham that he had secured an employment as a Conductor in the State Transport Department after the termination on a temporary basis. The Management states that he had other employment also subsequently. That claim is denied by Shri Abraham. But it is pertinent to note that Shri Abraham had not claimed back wages in his claim statement. That is an indication that he himself feels that he cannot legitimately claim back wages. Admittedly he is not qualified to be absorbed as a Clerk in the establishment. The other manual work available is casual in nature such as weighing cashewnuts which is of a seasonal nature. The staff strength of the Society is regulated and restricted by rules and sanctions issued by Government and the Department. In these state of affairs the Society will have a difficult situation if I now order reinstatement of Shri Abraham. In the circumstances adequate compensation will be the appropriate relief.

8. Sri Abraham had put in only one year of service. He was entitled to fifteen days wages and one month's notice pay if it was a case of lawful retrenchment. That works out to Rs.246/-. A lump sum compensation of Rs. 1,000 will be sufficient in the circumstances. In the result an award is passed directing the Management to pay Rs. 1,000 (Rupees one thousand only) as compensation to Shri C.P. Abraham. He is not entitled to any other reliefs.

Ernakulam,
18-6-1982.

N. SUKUMARAN,
Presiding Officer.

Appendix

Witnesses examined on the Workman's side:

WW1 Shri Abraham.
WW2 ,, O. Mathai.

Witness examined on the Management's side:—

MW1 Shri Poulose, K.A.

Exhibits marked on the Management's side:

Ext. M1. Ledger of the Society for the year 1976-77.
,, M2. Do. 1977-78.
,, M3 series. Cash vouchers of the Society from 30-11-1976 to 30-6-1977.
,, M4 series. Cash vouchers of the Society from 1-7-1977 to 24-12-1977.

Kerala Gazette No. 43 dated 2nd November 1982.
PART I.

GOVERNMENT OF KERALA

Labour (A) Department

NOTIFICATION

G.O. (Rt.) No. 1060/82/LBR. *Dated, Trivandrum, 30th September 1982.*

The award of the Labour Court, Ernakulam in respect of the dispute between the Managing Director, Mathrubhoomi Printing and Publishing Company Limited, Calicut and the workman of the above concern Shri. Mathew Luke, Vadakke Thalikaparambil, Vayala Post, via Kuravilangad, Kottayam District received by Government on 24-9-1982 is hereby published under section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,
K. SIVADASAN,
Deputy Secretary to Government.

In the Labour Court, Ernakulam

Present :

SHRI N. SUKUMARAN, B.SC., B.L.,

Presiding Officer

Saturday, the 18th September, 1982

INDUSTRIAL DISPUTE No 20 of 1980

Between

The Managing Director, Mathrubhoomi Printing and Publishing Company Limited, Calicut.

And

The workman of the above concern Shri Mathew Luke, Vadakke Thalikaparambil, Vayala Post, via Kuravilangad, Kottayam District.

Representations:—

M/s. P. K. Sankarankutty & K. Hemachandran, Advocates, Calicut. — For *Management*

M/s. K. Balachandran & M. Jayakumar, Advocates, Ernakulam. — For *Workman*

G. A. 183/V

AWARD

The issue referred for adjudication by Government as per G. O. (Rt.) No. 543/80/LBR dated 29-4-1980 is as follows:

> "Termination of employment of Sri. Mathew Luke, Chief Sub-Editor, Cochin Unit, Mathrubhoomi Printing and Publishing Company Limited, Calicut."

II. The Management initiated disciplinary proceedings against Shri Mathew Luke alleging that he absented without leave. A domestic enquiry was conducted into the alleged misconduct wherein it was found that he is guilty of the charges. The Management is defending its action by saying that the termination was a punishment for the proved misconduct. The workman is claiming reinstatement with all benefits alleging that there was no proper and valid domestic enquiry. Various other contentions are also raised.

III. The validity of the domestic enquiry was tried by me as a preliminary issue. I have found in my preliminary order dated 26-7-1982 that there was absence without leave as found by the Enquiry Officer from 29-1-1978 to 16-3-1978. I have also found that there was a valid and proper domestic enquiry. Details of the contentions of the parties and the other relevant facts have been narrated in that order which I shall here extract so as to form it a part of this award.—

"ORDER

Termination of services of Shri Mathew Luke, one of the Chief Sub-Editors of the Cochin Unit of Mathrubhoomi Printing and Publishing Company Limited, Calicut, was effected and the correctness of the same is what is involved in this adjudication. The Management started disciplinary proceedings against the employee stating that he absented without leave on 16-1-1978, 19-1-1978 to 27-1-1978 and 29-1-1978 onwards till the proceedings were initiated on 15-2-1978. The Communication issued calling upon the employee to show cause why action should not be taken against him was by registered post. It was returned unserved. Thereupon the Management published a notice in the Calicut and Cochin editions of the Mathrubhoomi Daily dated 15-3-1978 wherein it was stated that Shri Mathew Luke is absenting from duty without leave from 29-1-1978 and he was to show cause why action should not be taken against him on or before 17-3-1978. It was also mentioned there in that he will be treated as having deserted the job with effect from 18-3-1978 if nothing was heard from him. The next day of the publication Shri Mathew Luke filed an explantion stating that he was unwell and under treatment from 19th January onwards and the News Editor was informed of the situation by two separate letters and that he has to be on leave on medical grounds till the end of March 1978. A medical certificate was also attached

in support of the illness stated. The Management was not satisfied with the explanations and it ordered a domestic enquiry to be conducted by Shri P. K. Balakrishna Kurup, the Branch Manager of the Cochin Unit. The charge to be enquired was also intimated to the employee. It was limited to the absence from 29-1-1978 onwards. The workman in reply stated that he proposes to examine Shri Balakrishna Kurup as a witness on his side and therefore he should not conduct the domestic enquiry. Another Officer of the Management concern was appointed as the Enquiry officer. He conducted the domestic enquiry in which the workman participated. The Enquiry Officer gave his findings that the workman was guilty of the charge of absence without leave from 29-1-1978 to 16-3-1978. It is on the basis of that finding that the termination was effected.

2. The workman in his claim statement contends that the higher officers of the concern were on enmical terms with him and they wanted to victimise him for no fault of him and they had taken advantage of his absence on medical grounds from 19-1-1978 onwards. Actually he was ill from 19-1-1978 and that fact was informed to the Resident Editor as per a letter dated 23-1-1978. A medical certificate was also forwarded later on 26-1-1978. Ignoring his leave applications and the medical certificate the Management had initiated action. He had submitted another leave application supported by a medical certificate on 16-3-1978. That was also not given due consideration. The Management has not actually terminated his services by way of a punishment. But he had been treated as having deserted the job as could be seen from the later publications issued. He has never deserted the job. No enquiry was conducted into the actual charges raised against him. No proper and valid enquiry was conducted. He was not given ample opportunity to cross-examine the witnesses for the Management nor was he given sufficient chance to adduce all his evidence. Actually there is no termination but a dismissal under the guise of termination order. He is, therefore, entitled to reinstatement with all benefits.

3. The Management in its written statement justifies its action by saying that the workman actually absented without leave and that that charge was well established in a properly conducted domestic enquiry. In the enquiry the workman was given all legitimate opportunities to defend himself. The Enquiry Officer came to the correct decision that the workman is guilty. The workman was given a further opportunity to show cause why his services should not be terminated with effect from 8-6-1978. The communication in this regard sent by registered post was returned unserved and therefore it was finally published in the papers. The action of the Management is bonafide. The allegation that the higher officers were not in good terms with him and therefore he was victimised is false. The workman is, therefore, not entitled to any reliefs.

4. In view of the rival contentions regarding the validity of the domestic enquiry the question as to whether the enquiry was proper or not is being tried as a preliminary issue. The enquiry Officer was examined as MW1. The file containing the relevant documents at the enquiry proved by him is Ext. M I. The relevant communications in the file have been marked separately as Ext. M 1(a) to M I(L) for reference at the time of hearing.

5. The Management had raised a contention in the written statement that the workmen is holding a responsible supervisory post. This contention is denied by the workman in his pleadings. However no arguments were advanced before me that the reference is bad for the reason that the employee is holding a supervisory post. So it is unnecessary to decide this controversy.

6. The final termination order published in the papers consequent on the failure of the attempt to serve the same through registered post is Ext. M I(L). It states that the communication sent by post was intended to terminate his services with effect from 8-6-1978 and goes on to say that he will be deemed to have deserted his job with effect from 8-6-1978. In view of the fraseology employed in Ext. M 1(L) the learned counsel appearing on behalf of the workman argues that no punishment was inflicted on the basis of the domestic enquiry and the termination was brought about for a different reason and it therefore amounts to a retrenchment as defined in Section 2 (oo) of the Industrial Disputes Act without adopting the necessary formalities and thus the termination itself is bad and ineffective. According to the learned counsel reinstatement of the workman can straightaway be ordered even without going into the merits of the other contentions. But that is a matter which can be considered at the subsequent stage. For the present we are concerned with the validity of the domestic enquiry which I shall proceed to consider.

7. The main attack is that the workman was not given sufficient opportunities to cross-examine the witness for the Management (only one witness was examined on the side of the Management) and to adduce all evidence in defence. But Ext. M I shows that the Management's witness was cross-examined on all aspects by the workman. The workman is also a signatory to the deposition of the witness. He did not raise any objection at that stage that he had further questions to be asked. On the other hand the deposition concludes with a statement that the cross-examination was exhausted. The workman was asked even earlier to submit his list of witnesses. He wanted the examination of Shri P. K. Balakrishna Kurup. That witness was examined. He did not want the examination of any other witness at the enquiry on his side. So the criticism that he was not given sufficient opportunity to adduce his evidence is without any reasonable basis.

8. Another objection is that he was not given the list of witnesses on the side of the Management in advance. This complaint is also without any reasonable basis. In the first instance the Management appointed Shri Balakrishna Kurup as the Enquiry Officer. That fact was informed to the workman as per the original of Ext. M 1(b) letter. In reply the workman issued Ext. M 1(e) stating that the Enquiry Officer appointed is a probable witness on his side and therefore somebody else has to be appointed to conduct the enquiry. Therein he requested the Management to give him advance information regarding the witnesses who are intended to be examined. Both the requests are seen to have been allowed by the Management in Ext. M 1(f) letter appointing MW1 as the Enquiry Officer and intimating that Shri K. A. Somasekharan, the only witness who was later examined at the enquiry, is the witness for the Management. It was in this communication that the workman was informed that he has to file his list witnesses also before 2-5-1978. The enquiry was proposed to 3-5-1978 and it was conducted on that day in which the workman participated throughout. In these state of affairs the complaint that the workman did not have advance information regarding the materials that were intended to be used against him is also not genuine.

9. Yet another complaint is that the enquiry was not directed against the actual charges raised against the workman. The Enquiry Officer had enquired into the charge of absence without leave from 29-1-1978 to 16-3-1978. It was this charge that was appended to Ext. M 1(f) under which MW1 was appointed as the Enquiry Officer. The workman had also notice of the charge and he participated in the enquiry to defend that charge. It is true that the charge annexed to Ext. M 1(d) was that he was absent from 29-1-1978 onwards. There no outer limit was stated. That omission was also supplied when Ext. M 1 (f) was issued. In Ext. M 1(a), the first communication under which disciplinary proceedings were initiated, absence on 16-1-1978 and thereafter from 19-1-1978 to 27-1-1978 and from 29-1-1978 to the date of communication on 15-2-1978 were mentioned. But on return of that communication the paper publication effected in Ext. M1 (b) alleged absence from 29-1-1978 onwards only. The deviation according to the workman is material and had affected his rights adversely. There is no basis for such a complaint. It is the admitted case that the workman was absent from 19-1-1978 onwards. The Management finally wanted to enquire into the absence from 29-1-1978 till 16-3-1978 alone as a misconduct because the workman is seen to have applied with a medical certificate on 16-3-1978 for leave. In these state of affairs the deviation from the period of absence originally stated does not in any way affect the validity of the domestic enquiry. Ofcourse this aspect may have to be considered while considering the merits of the evidence on record. But for the present it can safely be concluded that the Management had granted all requests of the workman regarding the course of conduct to be adopted in the enquiry. He had no further grievances at that stage. The Enquiry Officer is seen to have given all opportunities to the workman to defend himself. In these state of affairs the enquiry in form and procedure was held in accordance with principles of natural justice.

10. Want of bonafides and presence of an idea to victimise the workman are attributed to the Management. It is said that the higher officers had a special grudge against Shri Mathew Luke. What is stated is that Shri K. P. Damodaran, the Administrative Officer of the Management Company, was displeased with Shri Mathew Luke for not supporting him in the election held to the Director Board of the Management Company. Shri Mathew Luke is also a shareholder of the Company. Shri K. P. Damodaran is seen to have addressed Ext. M 1(h) letter to Shri Mathew Luke on 17-1-1978 by post requesting the latter to vote for him at the meeting. What is contended is that Shri Mathew Luke did not cast his vote in favour of Shri Damodaran and the case is therefore foisted against him. Another allegation is that Shri Sreedharan Nair, who was the News Editor, had some special reasons to wreak vengeance of Shri Mathew Luke. But we have Ext. M 1(g) letter admittedly written to him by Shri Mathew Luke on 23-1-1978. That is a personal letter and the reading of the same would indicate that it was addressed to a friend and not an enemy. There is no indication in evidence from which it could be said that Shri Sreedharan Nair or Shri K. P. Damodaran or any other higher officers of the Company had a motive to victimise Shri Mathew Luke. So the theory of victimisation is also not established.

11. Now the question remains as to whether the findings of the Enquiry Officer is warranted by the evidence on record. According to the learned counsel appearing on behalf of the workman the evidence is quite insufficient to hold that there was absence without leave and the communications are in support of coming to the conclusion that the workman had presented timely application for leave. It is also argued that it is unnecessary as per the provisions of the Working Journalists (Conditions of Service) and Miscellaneous Provisions Act and the rules framed thereunder to apply in advance for medical leave and the delay, if at all any, is immaterial.

12. Admittedly Shri Mathew Luke did not attend duties from 19-1-1978 till 1-4-1978. His case is that he had given timely intimation of his illness and the inability cause thereby requiring absence from office to the Resident Editor. He has also a case that he had produced two medical certificates and the necessary leave applications on 26-1-1978 and 16-3-1978. He claims that there was an intimation to the Resident Editor on 23-1-1978. It is in evidence that the intimation dated 23-1-1978 and the communication dated 16-3-1978 were received by the Management. Ext. M 1(c) is the communication dated 16-3-1978. That was received by the Resident Editor of the Cochin Unit on 18-3-1978. It was supported by a medical certificate which forms part of the same document. That was forwarded to the Managing Director by the Resident Editor. The medical certificate is dated 15-3-1978. It states that Shri Mathew Luke was undergoing treatment from 19th of January 1978 and his absence till the 30th of March 1978 is absolutely essential. In the forwarding letter Shri Mathew Luke has said that he had issued to intimations regarding his illness to the Resident

Editor on earlier occasions and that it is understood that one of them alone was received by the addressee. There is no motion in Ext. M1 (c) that any medical certificate was earlier produced. But the present contention is that a leave application was submitted supported by a medical certificate on 26-1-1978. It is so stated in the written statement submitted by Shri Mathew Luke before the Enquiry Officer. (That is also in Ext. M1 forming pages 8 to 17 of the file). But there is no such mention of an earlier medical certificate in Ext. M 1(c). The absence is very significant. According to the Management no leave application dated 26-1-1978 nor a medical certificate was received. There is absolutely no evidence in support of the claim that a leave application was submitted on 26-1-1978. A reading of Ext. M 1(c) indicates that no such leave application was issued on 26-1-1978. Ext. M 1(g) letter issued by Shri Mathew Luke on 23-1-1978 to Shri Sreedharan Nair indicates that he had applied for leave for one day on 28-1-1978. That probably is the reason why the Management limited its action for absence from 29-1-1978 onwards alone. From the documents available it can be seen that the only leave application received apart from the one for 28-1-1978 was Ext. M 1(c) dated 16-3-1978. That is how the Management had proceeded with disciplinary proceedings on the charge of absence from 29-1-1978 to 16-3-1978. It is for the employee Shri Mathew Luke to establish that he had submitted a leave application on 26-1-1978 as is contended by him. His case is that the leave application was posted by ordinary post by a Peon of a Nursing Home where he was undergoing treatment against his specific instructions to post it under certificate of posting. If he was serious about this contention then it was upto him to examine the particular peon and establish the case. He has not done that. The solitary witness for the Management and the Management's Officer examined on the side of the employee at the enquiry have categorically stated that no application for leave from Shri Mathew Luke was received apart from those admitted. Then the weight of the evidence is in support of the Management's case that there was absence without leave or intimation from 29-1-1978 to 16-3-1978. The finding of the Enquiry Officer on this charge is reasonable on the evidence available. It cannot be termed as perverse. It is therefore confirmed.

13. The question as to whether the absence found above amounts to a misconduct or not, the validity of the termination and the reliefs if any in case there is no misconduct are matters that could be considered at the subsequent stage. So I am not deciding those aspects in this preliminary order.

14. In the result it is hereby found that the enquiry was properly conducted and the findings are correct".

IV Subsequent to the above order arguments were heard on matters that were not decided therein. I have said in the preliminary order that the question as to whether the absence without leave would amount to a misconduct and if so the validity of the termination and the reliefs if any available will all be considered in the final award. I shall now proceed to consider those aspects one by one.

V There was admitted absence from 29-1-1978 to 16-3-1978. Shri Mathew Luke on 16-3-1978 filed Ext. M1 (c) letter along with a medical certificate issued by Dr. George Mathew of Rajagiri Hospital, Calicut dated 15-3-1978 for medical leave for 71 days from 19-1-1978 to 30-3-1978 (both days inclusive). The Doctor had recommended absence from duty till 30-3-1978. He had also said that Shri Mathew Luke was under his treatment from 19th January 1978 onwards for hypertension and C. C. F. According to the Management Ext. M1 (c) and the medical certificate were filed only as an explanation for the absence in answer to the disciplinary proceedings initiated under Ext. M1 (a). Ext. M1 (a) show cause notice sent by registered post was returned unserved. It was therefore that the Management published that show cause notice in the issues of Calicut and Cochin Editions of the Mathrubhoomi Daily dated 15-3-1978. In the notification it was said that the registered letter could not be served and therefore Shri Mathew Luke has to file his explanations if any for the absence from 29-1-1978 onwards on or before 17-3-1978. What is argued by the Management is that Ext. M1 (c) is only an explanation and cannot be treated as a leave application. But Ext. M1 (c) on its face value is only a leave application. Admittedly Shri Mathew Luke was not attending office from 16-3-1978 also. Still the Management did not treat that absence as unauthorised presumably because he had applied for leave upto the end of March. The argument now advanced before me is that Shri Mathew Luke should have applied for leave in advance or atleast within a reasonable time of the so called illness instead of waiting till the 16th when Ext. M1 (b) publication was issued. The argument advanced on behalf of Shri Mathew Luke is that there is no rule insisting on the filing of an advance leave application in the case of medical leave and it is open to the concerned employee to apply for regularisation of the leave leisurely.

VI It is common case that Shri Mathew Luke is a working journalist and the provisions of the Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955 (the Act for short) and the Rules framed thereunder (Working Journalists–Conditions of Service– and Miscellaneous Provisions Rules, 1957) (the Rules for short) are applicable to him. Section 7(b) of the Act provides that a working journalist is entitled to leave on medical certificate on one-half of the wages for not less than one-eighteenth of the period of service. Rule 18 of the Rules deals with leave application and that reads as follows :—

"(1) A working journalist who desires to obtain leave for absence shall apply in writing to the competent officer.

(2) Application for leave, other than casual leave, leave on medical certificate and quarantine leave, shall be made not less than one month before the date of commencement of leave, except in urgent or unforeseen circumstances."

The exemption provided in the Rule is relied on by the employee to argue that it is not obligatory for him to apply in advance for medical leave. But special provision is made in Rule 28 of the Rules concerning leave on medical certificate. Sub-rules (1) and (2) are relevant for our purpose. They are as follows :—

"28 (1) A working journalist shall be entitled to leave on medical certificate on one-half of the wages at the rate of not less than one month for every eighteen months of service :

Provided that he shall cease to earn such leave when the leave on medical certificate amounts to ninety days.

(2) The medical certificate shall be from an authorised medical practitioner :

Provided that when a working journalist has proceeded to a place other than his headquarters with the permission of his employer and falls ill, he may produce a medical certificate from any registered medical practitioner :

Provided further that the employer may, when the registered medical practitioner is not in the service of the Government, arrange at his own expense, the medical examination of the working journalist concerned, by any Government Medical Officer not below the rank of a Civil Assistant Surgeon or any other Medical Officer in charge of a hospital run by a local authority or a public organisation at that place like the Kasturba Gandhi Trust, Kamala Devi Nehru Trust or Tata Memorial Trust."

In the present case the employee's case is that he had fallen ill when he was away from Ernakulam the place where he was working and he was under treatment there. The certificate issued is not by a Government Medical Officer. The proviso to sub-rule (2) is an indication that in appropriate cases the Management can conduct its own medical examination when the leave application is supported by a certificate issued by a Doctor who is not in Government Service. That is an indication from which it can reasonably be inferred that the certificate and the leave application are to be filed as soon as possible giving an opportunity to the Management to satisfy itself regarding the genuineness of the ground alleged by way of a fresh medical examination. This could be done only if the application is submitted while the illness was present. This is not a case where the absence and the alleged illness were for a short duration. If the absence of a provision for an advance application is taken advantage of the employees then it is possible for them to remain away for any considerable length of time and appear and report with a medical certificate of illness and fitness simultaneously at their own convenience. That the intention is not so is evident from the proviso to sub-rule (2) of Rule 28.

VII. What is said above applies to ordinary circumstances. But here in this case Ext. M1 (c) application and the medical certificate were presented in special circumstances. It came in soon after Ext. M1 (b) publication was issued. I have already mentioned in the preliminary order that the workman's claim that he had submitted an earlier leave application for this period is not proved and therefore not acceptable. The medical certificate submitted along with Ext. M1 (c) states that Shri Mathew Luke was continuously under treatment requiring rest and absence from duty from 19-1-1978. But we have Ext. M1 (g) letter dated 23-1-1978 admittedly written by Shri Mathew Luke to Shri Sreedharan Nair. That shows that he had applied for leave for one day on the 28th of January 1978. If as a matter of fact he was continuously under treatment from 19-1-1978 onwards then there was no necessity or occasion to limit the leave for one day alone. At any rate he would have applied for extension of the leave soon after 28th if he was really under treatment as is now claimed. The circumstances indicate that he did not apply for leave and absented without reasonable cause and came forward with Ext. M1 (c) application and the medical certificate filed along with it only when the Management took a serious view of the absence. The Rules as explained above indicate that the application should have been filed within a reasonable time of the origin of the illness if any.

VIII. The Standing Orders applicable to the Mathrubhumi Press, Ernakulam is produced by the Management. The employee objected to the admission of this document in evidence stating that it applies only to the employees of the Press as its captain says. But I am marking the same for reference as Ext. M2 in order to examine the objection that it is not applicable to working journalists. Explanation to standing order 2 of Ext. M2 reads as follows:—

> "The term Workmen includes a Newspaper employee as defined in the Working Journalists Conditions of Service and Miscellaneous Provisions Act, 1955."

So Ext. M2 must apply to the working journalists of Mathrubhumi Printing and Publishing Company Ltd., Kozhikode which has an edition at Ernakulam to which Ext. M2 relates. Standing Order 18 (f) makes habitual absence without leave or absence without leave for more than ten consecutive days a misconduct and Standing Order 19 (i) prescribes the punishment of suspension for a period not exceeding four days or dismissal without notice or compensation for such a misconduct. These provisions must apply to Shri Mathew Luke as well and so the Management had authority to punish him for the absence as a misconduct.

IX. Now remains the question as to whether a punishment for the misconduct was effected or termination for other reasons made. Ext. M1 (j) dated 23-6-1978 is the order imposing the punishment. The operative portion of the order which contains in the last para is as follows:—

"യാതൊരു വിവരവും തരാതെ, ദിനപത്രത്തിന്റെ ചുമതല കാര്യക്ഷമമായി നടത്തിക്കുന്നതിൽ വിഷമം ഉണ്ടാക്കുന്നവിധം, പ്രവൃത്തിക്കു മുടങ്ങുന്നതു നിരുത്തരവാദപരമാണെന്നതിനു സംശയമില്ല. അത്തരം നിരുത്തരവാദപരമായി പ്രവൃത്തിക്കു മുടങ്ങുന്ന ഒരു പ്രധാന ഉദ്യോഗസ്ഥനെ തൽസ്ഥാനത്തു തുടരാനനുവദിക്കുന്നതു ശരിയല്ല. അതുകൊണ്ട് ശ്രീ. മാത്യു ലൂക്കിനെ 8-6-1978-മുതൽ സർവ്വീസിൽ നിന്നും നീക്കം ചെയ്യാൻ ഉദ്ദേശിക്കുന്നു. അങ്ങിനെ ചെയ്യാതിരിക്കാൻ വല്ല കാരണവുമുണ്ടെങ്കിൽ ആയത് 30-6-1978-നു മുമ്പായി മാനേജിംഗ് ഡയറക്ടർക്ക് എഴുതി ബോധിപ്പിക്കാൻ അയാൾക്ക് ഒരു അവസരം നൽകിയിരിക്കുന്നു".

This order was attempted to be communicated to Shri Mathew Luke by registered post. But it was returned after the attempts made by the Postal Department at various places with the endorsement that the addressee could not be traced out. The attempt of the Management to serve the notice at the native place of Shri Mathew Luke also did not succeed. It was therefore that Ext. M1 (k) publication was effected in the two editions of the Mathrubhumi Daily on 21-7-1978 and 2?-7-1978. The notifications said that Shri Mathew Luke could not be served the order of termination of his services by post and therefore he will be deemed to have deserted the job and left the services of the Company with effect from 8-6-1978. However he was given intimation therein that the original communication is available with the Branch Manager of the Cochin Branch and he can submit his explanations, if any, within a week. Nothing was done and finally the Management issued Ext. M1 (L) notification in both the editions dated 2-8-1978. The notification is to the following effect :—

> "Despite the notice dated 20-7-1978 published in the Mathrubhumi Daily dated 21-7-1978, Calicut Edition and 24-7-1978 Cochin Edition, Sri Mathew Luke, Chief Sub Editor, Mathrubhumi, Cochin has not collected the communication dated 23-6-1978 and submitted explanation as required in the said notice. In the circumstance he is deemed to have deserted the job and his services stand terminated with effect from 8-6-1978. His name is removed from the Muster roll with effect from 8-6-1978. Sri Luke is hereby advised to contact the Head Office in connection with the settlement of his claims of Gratuity, Provident Fund etc."

The argument advanced on behalf of Shri Mathew Luke is that his services were terminated with effect from 8-6-1978 not as a punishment for the proved misconduct but for other reasons. It was mentioned in Ext. M1 (j) that Shri Mathew Luke was absent from 1-6-1978 to 5-6-1978 and 8-6-1978 onwards. It was after stating so that the termination with effect from 8-6-1978 was effected. The argument is that the termination is for the subsequent absence and not for the absence for which he was found guilty in the domestic enquiry. But a reading of the contents of Ext. M1 (j) would indicate that subsequent absence as well as the details of some prior absence were mentioned in considering the prior and subsequent conduct of Shri Mathew Luke. The punishment of termination was awarded

considering those conducts also for the absence which was the subject matter of the charge in the domestic enquiry. Ext. M1 (j) is a valid termination for the misconduct. The subsequent notifications are only the means adopted to communicate the contents of Ext. M1 (j). Of course it was stated in the notifications published in the paper that the whereabouts of Shri Mathew Luke are not known and he will be treated as a deserter. But the actual order of termination is Ext. M1 (j) which has awarded him the punishment of termination of services for the misconduct. Hence the argument that there was a termination which amounts to retrenchment without following the due formalities and therefore he is deemed to be in service as per law cannot be accepted. There was in fact a punishment for the proved misconduct.

X. Now the question remains as to what reliefs, if any, Shri Mathew Luke is entitled to in the matter of punishment. It is admitted that Shri Mathew Luke is now 57 years in age. The normal age of retirement on superannuation is also admitted to be 60. He has hardly three years of service left as matters stand now. There is no dispute regarding the correctness of the prior and subsequent conduct of Shri Mathew Luke narrated in Ext. M1 (j). It shows that he was warned for absence without leave on prior occasions. Even after 31-3-1978 he was not attending office. This conduct shows that he is not earnest in his work even though he was occupying a very responsible position as a Sub Editor in the Newspaper. The Management's case that it will be very hard if he is asked to be re-entertained is genuine in the circumstances. So reinstatement is out of question. The punishment prescribed for habitual absence without leave is suspension for four days or dismissal. There is a wide gap between the alternatives. The Management had only removed him from service and it had not effected a dismissal as such. The removal or termination amounts only to a discharge. However the Management had not offered any sort of benefits to Shri Mathew Luke. In the circumstances of this case I feel that appropriate punishment that should be awarded is a discharge from service with effect from this date for which benefits should be paid by the Management. I have no data to compute the benefits. So the Management will pay Shri Mathew Luke the benefits as though he had been discharged from service with effect from today. The broken period will count for qualifying service for the computation of benefits and he will not be entitled to back wages. The salary that he was entitled to draw as on 31-1-1978 will be taken as the basis for computation of the benefits. Shri Mathew Luke is not entitled to any other reliefs. An award is passed accordingly.

Ernakulam,
18-9-1982.

N. SUKUMARAN,
Presiding Officer.

Appendix

Witness examined on the Management's side:

MW1 Shri K. Radhakrishnan.

Exhibits marked on the Management's side:

Ext. M1. The file containing the domestic enquiry papers.

,, M1 (a). Show cause notice dated 15-2-1978 issued to Shri Mathew Luke for his absence. (in Ext. M1)

,, M1 (b). Notice dated 13-3-1978 published in the Mathrubhumi Daily dated 15-3-1978 Calicut and Cochin Editions directing Shri Mathew Luke to submit his explanations (in Ext. M1).

,, M1 (c). A letter dated 16-3-1978 from Shri Mathew Luke to the Management requesting for leave. (in Ext. M1)

,, M1 (d). A communication dated 5-4-1978 from the Management to Shri Mathew Luke regarding the domestic enquiry (in Ext. M1).

,, M1 (e). A letter dated 17-4-1978 from Shri Mathew Luke to Shri P. K. Balakrishna Kurup (Enquiry Officer) to adjourn the enquiry proposed on 18-4-1978. (in Ext. M1).

,, M1 (f). A communication dated 27-4-1978 from the Management to Shri Mathew Luke informing the date of the domestic enquiry (in Ext. M1)

,, M1 (g). A letter dated 23-1-1978 from Shri Mathew Luke to Shri Sreedharan Nair (in Ext. M1).

,, M1 (h). An inland letter dated 17-1-1978 addressed to Shri Mathew Luke. (in Ext. M1).

,, M1 (i). Findings of the Enquiry Officer dated 5-5-1978. (in Ext. M1)

,, M1 (j). Termination order dated 23-6-1978 issued to Shri Mathew Luke. (in Ext. M1).

,, M1 (k). Notice published in the Mathrubhumi Daily dated 21-7-1978 of Calicut Edition and Cochin Edition of Mathrubhumi Daily dated 22-7-1978. (in Ext. M1).

,, M1 (L). Notice published in Mathrubhumi Daily dated 2-8-1978 of both Calicut and Cochin Editions. (in Ext. M1).

,, M2. Standing Orders of Mathrubhumi Press, Ernakulam.

Kerala Gazette No. 43 dated 2nd November 1982.
PART I Section i

GOVERNMENT OF KERALA

Law (Legislation–Publication) Department

NOTIFICATION

No. 16717/Leg. Pbn. 2/81/Law. *Dated, Trivandrum, 2nd November,* 1981.

The following Act of Parliament, published in a Gazette of India Extraordinary, Part II, Section 1, dated the 14th September, 1981, is hereby republished for general information. The Bill as passed by the Houses of Parliament received the assent of the President on the 11th September, 1981.

By order of the Governor,
K. VISWANATHAN NAIR,
Special Secretary to Government (Law).

THE EXPORT-IMPORT BANK OF INDIA ACT, 1981

(No. 28/1981)

Arrangement of Sections

CHAPTER I

PRELIMINARY

SECTIONS

CHAPTER II

ESTABLISHMENT OF THE EXPORT-IMPORT BANK OF INDIA AND INCORPORATION THEREOF

CHAPTER III

MANAGEMENT OF THE EXIM BANK

CHAPTER IV

BUSINESS OF THE EXIM BANK

CHAPTER V

SECTIONS RESOURSES OF THE EXIM BANK

CHAPTER VI

EXPORT DEVELOPMENT FUND

CHAPTER VII

GENERAL FUND, ACCOUNTS AND AUDIT

CHAPTER VIII

TRANSFER OF PART OF BUSINESS OF DEVELOPMENT BANK

CHAPTER IX

MISCELLANEOUS

THE EXPORT-IMPORT BANK OF INDIA ACT, 1981

AN

ACT

to establish a corporation to be known as the Export-Import Bank of India for providing financial assistance to exporters and importers, and for functioning as the principal financial institution for co-ordinating the working of institutions engaged in financing export and import of goods and services with a view to promoting the country's international trade and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Thirty-second Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Export-Import Bank of India Act, 1981.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "Board" means the Board of Directors of the Exim Bank referred to in section 6;

(b) "Development Bank" means the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (18 of 1964);

(c) "Exim Bank" means the Export-Import Bank of India established under section 3;

(d) "export" and "Import" mean, respectively, export from or import into India or any other country of goods or services, or both;

(e) "goods" includes all materials, commodities and articles in a solid, liquid or gaseous state and all forms of energy;

(f) "notification" means a notification published in the Official Gazette;

(g) "prescribed" means prescribed by regulations made under this Act;

(h) "Reserve Bank" means the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934 (2 of 1934);

(i) "scheduled bank" means a bank, for the time being, included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934);

(j) "services" includes,—

(I) providing personnel (including skilled or unskilled workmen and persons for rendering technical or other services) for the purposes of any work or project (by whatever name called) or any activity;

(II) transferring of technology, including transferring, or securing the transfer of rights, knowhow, expertises or other skill with respect to any patent, invention, model, design, secret formula or process or similar property;

(III) furnishing any information, blueprints, plans, or advice with respect to any matter; and

(IV) making available any other resources.

CHAPTER II

ESTABLISHMENT OF THE EXPORT-IMPORT BANK OF INDIA AND INCORPORATION THEREOF

3. *Establishment and incorporation of Exprot-Import Bank of India.*—(1) With effect from such date as the Central Government may, by notification, appoint, there shall be established for the purposes of this Act a corporation to be known as the Export-Import Bank of India.

(2) The Exim Bank shall be a body corporate with the name aforesaid having perpetual succession and a common seal with power, subject to the provision of this Act, to acquire, hold and dispose of property and to contract, and may, by that name, sue or be sued.

(3) The head office of the Exim Bank shall be at Bombay or at such other place as the Central Government may, by notification, specify.

(4) The Exim Bank may establish offices, branches or agencies at such places in or outside India as it may consider necessary.

4. *Authorised capital.*—(1) The authorised capital of the Exim Bank shall be two hundred crores of rupees:

Provided that the Central Government may, by notification, increase the said capital up to five hundred crores of rupees.

(2) The issued capital of the Exim Bank shall be wholly subscribed by the Central Government.

CHAPTER III

MANAGEMENT OF THE EXIM BANK

5. *Management.*—(1) The general superintendence, direction and management of the affairs and business of the Exim Bank shall vest in the Board, which may exercise all powers and do all acts and things which may be exercised or done by the Exim Bank.

(2) Save as otherwise provided in the regulations made under this Act,—

(a) the chairman, if he is a whole-time director or if he is holding offices both as the chairman and the managing director, or

(b) the managing director, if the chairman is not a whole-time director, or, if the chairman being a whole-time director, is absent,

shall also have powers of general superintendence, direction and management of the affairs and business of the Exim Bank and may also exercise all powers and do all acts and things which may be exercised or done by the Exim Bank.

(3) Subject to the provisions of this Act, the Board in discharging its functions shall act on business principles with due regard to public interest.

(4) In the discharge of its functions under this Act, the Exim Bank shall be guided by such directions in matters of policy involving public interest as the Central Government may give to it in writing.

6. *Constitution of Board.*—(1) The Board of Directors of the Exim Bank shall consist of the following, namely:—

(a) a chairman and a managing director appointed by the Central Government:

Provided that the same person may be appointed to function both as chairman and as managing director;

(b) one director nominated by the Reserve Bank;

(c) one director nominated by the Development Bank;

(d) one director nominated by the Export Credit and Guarantee Corporation Limited, being a Government Company within the meaning of section 617 of the Companies Act, 1956 (1 of 1956);

(e) not more than twelve directors nominated by the Central Government of whom—

(i) five directors shall be officials of the Central Government;

(ii) not more than three directors shall be from the scheduled banks;

(iii) not more than four directors shall be persons who have special knowledge of, or professional experience in, export or import or financing thereof.

(2) The chairman and the managing director shall hold office for such term, not exceeding three years, as the Central Government may specify in this behalf and any person so appointed shall be eligible for re-appointment.

(3) Notwithstanding anything contained in sub-section (1), the Central Government shall have the right to terminate the term of office of the chairman or the managing director, as the case may be, at any time before the expiry of the term specified under subsection (2), by giving him notice of not less than three months in writing or three months' salary and allowances in lieu thereof, and the chairman or the managing director, as the case may be, shall also have the right to relinquish his office at any time before the expiry of the term specified under subsection (2) by giving to the Central Government notice of not less than three months in writing or three months' salary and allowances in lieu thereof.

(4) The chairman and the managing director shall receive such salary and allowances as may be determined by the Central Government.

(5) The Central Government may, at any time, remove the chairman or the managing director, as the case may be, from office:

Provided that no person shall be removed from his office under this subsection unless he has been given an opportunity of showing cause against his removal.

(6) Any director nominated under sub-clause (iii) of clause (e) of sub-section (1) shall hold office for a period of two years.

(7) Any other director nominated under this section shall hold office during the pleasure of the authority nominating him.

(8) The Board shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.

(9) The chairman or, if for any reason he is unable to attend a meeting of the Board, the managing director or, in the event of both the chairman and the managing director being unable to attend a meeting any other director nominated by the chairman in this behalf and in the absence of such nomination any director elected by the directors present from among themselves, shall preside at the meeting.

(10) All questions which come up before any meeting of the Board shall be decided by a majority of votes of the directors present and voting, and in the event of an equality of votes, the chairman, or in his absence, the managing director, or in the absence of both the chairman and the managing director, the person presiding, shall have and exercise a second or casting vote.

(11) Save as otherwise provided in subsection (10), every director of the Board shall have one vote.

7. *Committees*.—(1) The Board may constitute such Committees whether consisting wholly of directors or wholly of other persons or partly of directors and partly of other persons for such purpose or purposes as it may think fit.

(2) Any Committee constituted under subsection (1) shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.

8. *Fees and allowances of directors and members of Committees*.—The directors and the members of a Committee shall be paid such fees and allowances as may be prescribed for attending the meetings of the Board or of any Committee constituted in pursuance of this Act and for attending to any other work of the Exim Bank :

Provided that no fees shall be payable to the chairman, if he is appointed as a whole-time chairman, or to the managing director or to any other director or member who is an official of the Government, the Reserve Bank or the Development Bank.

9. *Disqualifications*.—No person shall be a director of the Board constituted under this Act, who—

(a) is, or at any time has been, adjudged insolvent, or

(b) is of unsound mind and has been so declared by a competent court, or

(c) is, or has been, convicted of an offence which, in the opinion of the Central Government, involves moral turpitude, or

(d) has, in the opinion of the Central Government, so abused his position as a director, as to render his continuance on the Board detrimental to the interests of the general public, or

(e) has been, for any reason, removed from the Board.

CHAPTER IV

BUSINESS OF THE EXIM BANK

10. *Business of Exim Bank*.—(1) The Exim Bank may grant in or outside India loans and advances by itself or in participation with any bank or financial institution whether in or outside India for the purposes of export or import and shall also function as the principal financial institution for co-ordinating the working of institutions engaged in financing of the export and import in such manner as it may deem appropriate.

(2) The Exim Bank may also carry on and transact all or any of the following kinds of business, namely :—

(a) granting loans and advances to a scheduled bank or any other bank or financial institution notified in the Official Gazette by the Central Government in this behalf by way of refinance of loans and advances granted by it for purposes of export or import;

(b) underwriting the issue of stocks, shares, bonds or debentures of any company engaged in export or import;

(c) issuing bid bonds or guarantees in or outside India by itself or in participation with any government, bank or financial institution in or outside India;

(d) accepting, collecting, discounting, re-discounting, purchasing selling or negotiating in or outside India, bills of exchange or promissory notes arising out of transactions relating to export or import and granting of loans and advances in or outside India against such bills or promissory notes;

(e) granting, opening, issuing, confirming or endorsing letters of credit and negotiating or collecting bills and other documents drawn thereunder;

(f) undertaking any transaction involving a combination of government to government and commercial credit for purposes of export or import;

(g) granting lines of credit to the government of any foreign State or any financial institution or person outside India for purposes of export or import;

(h) granting loans and advances outside India for any Indian joint venture;

(i) granting loans and advances to any person in India in connection with his equity contribution in any joint venture in any country outside India;

(j) financing export or import of machinery and equipment on lease basis;

(k) subscribing to, or investing in, or purchasing of, stocks, shares, bonds or debentures of any development bank or Export-Import Bank of any country outside India;

(l) buying or selling of, or entering into such other dealings in foreign exchange, as may be necessary for the discharge of its functions;

(m) opening of any account in any bank in or outside India or the making of any agency arrangement with, or acting as an agent or correspondent of, any bank or other institution in or outside India;

(n) transferring, for consideration, any instrument relating to loans and advances granted by it;

(o) issuing participation certificates;

(p) subscribing to, or investing in, or purchasing of stocks, shares, bonds or debentures to the extent necessary for the enforcement of a lien, pledge or other contractual right;

(q) undertaking and financing of research, surveys, techno-economic or any other study in connection with the promotion and development of international trade;

(r) providing technical, administrative and financial assistance of any kind for export or import;

(s) planning, promoting, developing and financing export-oriented concerns;

(t) forming or conducting subsidiaries for carrying out its functions;

(u) acting as agent of the Central Government, any State Government, the Reserve Bank, the Development Bank or any other person as the Central Government may authorise;

(v) collecting, compiling and disseminating market and credit information in respect of international trade;

(w) doing any other kind of business which the Central Government may authorise;

(x) generally doing such other acts and things as may be incidental to, or consequential upon, the exercise of its powers or the discharge of its duties under this Act or any other law for the time being in force, including sale or transfer of any of its assets.

(3) The Exim Bank may receive in consideration of any of the services mentioned in subsections (1) and (2) such commission, brokerage, interest, remuneration or fees as may be agreed upon.

(4) The Exim Bank shall not grant any loan or advance or other financial accommodation on the security of its own bonds or debentures.

CHAPTER V

RESOURCES OF THE EXIM BANK

11. *Loans by Central Government.*—The Central Government may, after due appropriation made by Parliament by law in this behalf, advance to the Exim Bank—

(a) a loan of twenty crores of rupees at a rate of interest of five and a quarter per cent, per annum repayable in fifteen equal annual instalments, commencing on the expiry of a period of fifteen years from the date of receipt of the loan; and

(b) such further sums of money by way of loan on such terms and conditions as may be agreed upon:

Provided that the Central Government may, on a request being made to it by the Exim Bank, increase the number of instalments or alter the amount of any instalment or vary the date on which any instalment is payable under clause (a).

12. *Borrowings and acceptance of deposits by Exim Bank.*—(1) The Exim Bank may, for the purposes of carrying out its functions under this Act,—

(a) issue and sell bonds and debentures with or without the guarantee of the Central Government;

(b) borrow money from the Reserve Bank—

(i) repayable on demand or on the expiry of fixed periods not exceeding ninety days from the date on which the money is so borrowed against the security of stocks, funds and securities (other than immovable property) in which a trustee is authorised to invest trust money by any law for the time being in force in India;

(ii) against bills of exchange or promissory notes arising out of *bona fide* commercial or trade transactions and bearing two or more good signatures and maturing within five years from the date of the borrowing;

(iii) out of the National Industrial Credit (Long Term Operations) Fund established under section 46C of the Reserve Bank of India Act, 1934 (2 of 1934) for any of the purposes specified in that section;

(c) borrow money from such other authority, organisation or institution in India as may generally or specially be approved by the Central Government;

(d) accept deposits repayable after the expiry of a period which shall not be less than twelve months from the date of the making of the deposit on such terms as may generally or specially be approved by the Reserve Bank.

(2) The Central Government may, on a request being made to it by the Exim Bark, guarantee the bonds and debentures issued by that Bank as to the repayment of principal and the payment of interest at such rate as may be fixed by that Government.

13. *Loans in foreign currency.*—Notwithstanding anything contained in the Foreign Exchange Regulation Act, 1973 (46 of 1973) or in any other law for the time being in force relating to foreign exchange, the Exim Bank may, for the purpose of granting loans and advances under this Act, borrow, with the previous consent of the Central Government, foreign currency from any foreign State or from any bank or financial institution in any foreign country or otherwise.

14. *Grants donations, etc.. to Exim Bank.*—The Exim Bank may receive gifts, grants, donations or benefactions from Government or any other source in or outside India.

CHAPTER VI

Export Development Fund

15. *Export Development Fund.*—With effect from such date as the Central Government may, by notification, appoint, the Exim Bank shall establish a special fund to be called the Export Development Fund.

16. *Credits to Export Development Fund.*—To the Export Development Fund shall be credited—

(*a*) all amounts received for the purposes of that Fund by way of loans, gifts, grants, donations or benefications from Government or any other source in or outside India;

(*b*) repayments or recoveries in respect of loans, advances or other facilities granted from the Fund;

(*c*) income or profits from investments made from the Fund; and

(*d*) income accruing or arising to the Fund by way of interest or otherwise, on account of the application of the Fund in accordance with the provisions of section 17.

17. *Utilisation of Export Development Fund.*—(*1*) Where the Exim Bank considers it necessary or desirable so to do, it may, subject to the provisions of subsections (*2*) and (*3*), disburse or spend from the Export Development Fund any amount on account or in consequence of the grant of any loan or advance, or on account or in consequence of entering into any arrangement under subsection (*1*) or clause (*b*) or clause (*c*) or clause (*d*) or clause (*q*) or clause (*r*) or clause (*s*) or clause (*w*) or clause (*x*) of subsection (*2*) of section 10:

Provided that before granting any such loan or advance or entering into any such arrangement, the Exim Bank shall obtain the prior approval of the Central Government.

(*2*) Before seeking the approval of the Central Government under subsection (*1*), the Exim Bank shall satisfy itself that banking or other financial institutions or other agencies are not likely to grant such loan or advance, or to enter into any such arrangement in the ordinary course of business.

(*3*) The Central Government shall, before giving its approval, satisfy itself that such loan, advance or arrangement is necessary as a matter of priority in the interests of the international trade of the country.

(*4*) For the removal of doubts, it is hereby declared that nothing contained in this section shall be deemed to preclude the Exim Bank from granting any loan or advance or from entering into any arrangement under subsection (*1*) or clause (*b*) or clause (*c*) or clause (*d*) or clause (*q*) or clause (*r*) or clause (*s*) or clause (*w*) or clause (*x*) of subsection (*2*) of section 10 without the approval of the Central Government, if no amount in respect thereof is to be disbursed or spent from the Export Development Fund.

18. *Debits to Export Development Fund.*—(*1*) To the Export Development Fund shall be debited—

(*a*) Such amounts as may from time to time be disbursed or spent under subsection (*1*) of section 17;

(*b*) such amounts as may be required for discharging the liabilities in respect of loans received for the purposes of that Fund;

(*c*) any loss arising on account of investment made out of that Fund; and

(*d*) such expenditure arising out of, or in connection with, the administration and application of the Fund as may be determined by the Board.

(*2*) No amount shall be debited to the Export Development Fund except as provided for in subsection (*1*).

19. *Accounts and audit of Export Development Fund.*—(*1*) The balance-sheet and accounts of the Export Development Fund shall be prepared in such form and manner as may be prescribed.

(*2*) The Board shall cause the books and accounts of the Export Development Fund to be closed and balanced as on the 31st day of December each year.

(*3*) The Export Development Fund shall be audited by one or more auditors appointed by the Central Government under section 24 who shall make a separate report thereon.

(*4*) The provisions of subsections (*2*), (*3*), (*4*) and (*6*) of section 24 shall, so far as may be, apply in relation to the audit of the Export Development Fund.

(*5*) The Exim Bank shall furnish to the Central Government, within four months from the date on which the accounts of the Export Development Fund are closed and balanced, a copy of the balance-sheet and accounts together with a copy of the auditors' report and a report on the operation of the Fund during the relevant year and the Central Government shall, as soon as may be after they are received by it, cause the same to be laid before each House of Parliament.

20. *Liquidation of Export Development Fund.*—The Export Development Fund shall not be closed or wound up save by order of the Central Government and in such manner as that Government may direct.

CHAPTER VII

General Fund, Accounts and Audit

21. *General Fund.*—All receipts of the Exim Bank other than those which are to be credited to the Export Development Fund under this Act shall be credited to a Fund to be called the General Fund and all payments by the Exim Bank, other than those which are to be debited to the Export Development Fund, shall be made out of the General Fund.

22. *Preparation of accounts and balance-sheet.*—(1) The balance-sheet and accounts of the Exim Bank shall be prepared in such form and manner as may be prescribed.

(2) The Board shall cause the books and accounts of the Exim Bank to be closed and balanced as on the 31st day of December each year.

23. *Disposal of profits accruing to General Fund.*—(1) The Exim Bank may establish a Reserve Fund to which may be transferred such sums as that Bank may deem fit out of the annual profits accruing to the General Fund.

(2) After making provision for bad and doubtful debts, depreciation of assets and for all other matters for which provision is necessary or expedient or which is usually provided for by bankers and for the Reserve Fund referred to in subsection (1), the Exim Bank shall transfer the balance of the net profits to the Central Government.

24. *Audit.*—(1) The accounts of the Exim Bank shall be audited by auditors duly qualified to act as auditors under subsection (1) of section 226 of the Companies Act, 1956 (1 of 1956), who shall be appointed by the Central Government for such term and on such remuneration as the Central Government may fix.

(2) The auditors shall be supplied with a copy of the annual balance-sheet of the Exim Bank and it shall be their duty to examine it together with the accounts and vouchers relating thereto and they shall have a list delivered to them of all books kept by the Exim Bank and shall at all reasonable times have access to the books, accounts, vouchers and other documents of the Exim Bank.

(3) The auditors may, in relation to such accounts, examine any director or any officer or other employee of the Exim Bank and shall be entitled to require from the Board or officer or other employee of the Exim Bank such information and explanation as they may think necessary for the performance of their duties.

(4) The auditors shall make a report to the Exim Bank upon the annual balance-sheet and accounts examined by them and in every such report they shall state whether in their opinion the balance-sheet is a full and fair balance-sheet containing all necessary particulars and properly drawn up so as to exhibit a true and fair view of the state of affairs of the Exim Bank and in case they had called for any explanation or information from the Board or any officer or other employee of the Exim Bank whether it has been given and whether is satisfactory.

(5) The Exim Bank shall furnish to the Central Government within four months from the date on which its accounts are closed and balanced, a copy of its balance-sheet and accounts together with a copy of the auditors' report and a report of the working of the Exim Bank during the relevant year, and the Central Government shall, as soon as may be after they are received by it, cause the same to be laid before each House of Parliament.

(6) Without prejudice to anything contained in the preceding sub-sections, the Central Government may, at any time, appoint the Comptroller and Auditor-General of India to examine and report upon the accounts of the Exim Bank and any expenditure incurred by him in connection with such examination and report shall be payable by the Exim Bank to the Comptroller and Auditor-General of India.

25. *Saving.*—Save as otherwise provided in subsection (4) of section 19, nothing contained in this Chapter shall apply to the Export Development Fund

CHAPTER VIII

TRANSFER ON PART OF BUSINESS OF DEVELOPMENT BANK

26. *Transfer of part of business of Development Bank.*—(1) On such date as the Central Government may, by notification, appoint, all business, property, assets and liabilities, rights, interests, privileges and obligations of whatever nature of the Development Bank in so far as they relate to the export financing functions of the Bank shall stand transferred to, and vest in, the Exim Bank.

(2) For the transfer to, and vesting in, the Exim Bank under sub-section (1), the Exim Bank shall pay to the Development Bank such amount in such manner and in such number of instalments as may be determined by the Central Government.

(3) All contracts, deeds, bonds, agreements, powers-of-attorney, grants of legal representation and other instruments of whatever nature of the Development Bank which relate to the export financing functions of that Bank and which are subsisting or having effect immediately before the date referred to in subsection (1) and to which the said Bank is a party or which are in favour of that Bank shall,—

(a) if they relate exclusively to the export financing functions of that Bank, be of full force and effect against or in favour of the EximBank, as the case may be, and may be enforced and acted upon as fully and effectively as if instead of the Development Bank the Exim Bank had been a party thereto or as if they had been issued in favour of the Exim Bank; and

(b) if they relate not only to the export financing functions of the Development Bank but also to any of the other functions of that Bank be of full force and effect against or in favour of both the Development Bank and the Exim Bank and may be enforced or acted upon as fully and effectively as if in addition to the Development Bank the Exim Bank had also been a party thereto or as if they had been issued in favour of the Development Bank and also the Exim Bank.

(4) If, on the date referred to in subsection (1), any suit, appeal or other legal proceeding of whatever nature relating to the export financing functions of the Development Bank is pending the same shall not abate, be discontinued or be in any way prejudicially affected by reason of the transfer

to the Exim Bank of the business of the Development Bank or of anything contained in this Act, but the suit, appeal or other proceeding may,—

(a) whereit relates exclusively to the export financing functions of the Development Bank be continued, prosecuted and enforced by or against the Exim Bank; and

(b) where it relates not only to the export financing functions of the Development Bank but also to any of the other functions of that Bank be continued, prosecuted and enforced by or against the Development Bank and the Exim Bank or, if the Central Government by special order in writing so directs, by or against such one of the said two Banks, as may be specified in such order.

(5) If any question arises as to whether any contract, deed, bond, agreement, powers of attorney, grant of legal representation or other instrument referred to in sub section (3) or any suit, appeal or other legal proceeding referred to in subsection (4) relates or relates exclusively to the export financing functions of the Development Bank, it shall be referred to the Central Government for decision and the decision of the Central Government thereon shall be final.

(6) The provisions of this section shall have effect notwithstanding anything contained in the Industrial Development Bank of India Act, 1964 (18 of 1964) or any other law or any instrument having force by virtue of the said Act or other law.

CHAPTER IX

MISCELLANEOUS

27. *Staff of Exim Bank.*—(1) The Exim Bank may appoint such number of officers and other employees as it considers necessary or desirable for the efficient performance of its functions and determine the terms and conditions of their appointment and service.

(2) Without prejudice to the provisions of subsection (1), it shall be lawful for the Exim Bank to utilise, and for the Development Bank to make available the services of, such staff of the Development Bank having experience relating to export financing functions on such terms and conditions as may be agreed upon between the Exim Bank and the Development Bank.

(3) The duties and conduct, terms and conditions of service and the establishment and maintenance of a Provident Fund or any other Fund for the benefit of the officers and other employees of the Exim Bank shall be such as may be prescribed.

28. *Delegation of powers.*—The Board may, by general or special order, delegate to any director or any officer or other employee of the Exim Bank, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Act as it may deem necessary.

29. *Returns.*—The Exim Bank shall furnish, from time to time, to the Central Government such returns as the Central Government may require.

30. *Obligation as to fidelity and secrecy.*—(1) The Exim Bank shall not, except as otherwise required by this Act or any other law, divulge any information relating to or to the affairs of, its constituents except in circumstances in which it is, in accordance with the law or practice and usage customary among bankers, necessary or appropriate for the Exim Bank to divulge such information.

(2) The Exim Bank may, for the purpose of efficient discharge of its functions under this Act, collect from, or furnish to, the Central Government, the Development Bank or any scheduled bank or such other financial institution, as may be notified in the Official Gazette by the Central Government in this behalf, credit information or other information as it may consider useful for the purpose, in such manner and at such times as it may think fit.

Explanation.—For the purpose of this subsection, the expression "credit information" shall have the same meaning as in clause (c) of section 45A of the Reserve Bank of India Act, 1934 (2 of 1934) subject to the modification that "banking company" referred to therein shall mean the Development Bank, any scheduled bank or other financial institution as aforesaid.

(3) Every director, member of a committee, auditor or officer or other employee of the Exim Bank or of the Development Bank whose services are utilised by the Exim Bank under the provisions of this Act, shall, before entering upon his duties, make a declaration of fidelity and secrecy in the form set out in the First Schedule.

31. *Defects in appointments not to invalidate act etc.*—(1) No act or proceeding of the Board or of any committee of the Exim Bank shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of. the Board or the committee, as the case may be

(2) No act done by any person acting in good faith as a director shall be deemed to be invalid merely on the ground that he was disqualified to be a director or that there was any other defect in his appointment.

32. *Arrangement with Exim Bank on appointment of directors to prevail.*—(1) Where any arrangement entered into by the Exim Bank with a company provides for the appointment by the Exim Bank of one or more directors of such company, such provision and any appointment of directors made in pursuance thereof shall be valid and effective notwithstanding anything to the contrary contained in the Companies Act, 1956 1 of 1956, or in any other law for the time being in force or in the memorandum, articles of association or any other instrument relating to the company, and any provision regarding share qualification, age limit, number of directorships, removal from office of directors and such like conditions contained in any such law or instrument aforesaid. shall not apply to any director appointed by the Exim Bank in pursuance of the arrangement as aforesaid.

Any director appointed as aforesaid shall—

(a) hold office during the pleasure of the Exim Bank any may be removed or substituted by any person by order in writing of the Exim Bank;

(b) not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the discharge of his duties as a director or anything in relation thereto;

(c) not be liable to retirement by rotation and shall not be taken into account for computing the number of directors liable to such retirement.

33. *Indemnity of directors.*—(1) Every director shall be indemnified by the Exim Bank against all losses and expenses incurred by him, in, or in relation to, the discharge of his duties, except such as are caused by his own wilful act or default.

(2) A director shall not be responsible for any other director or for any officer or other employee of the Exim Bank or for any loss or expenses resulting to the Exim Bank from the insufficiency or deficiency of the value of, or title to, any property or security acquired or taken on behalf of the Exim Bank or the insolvency or wrongful act of any debtor or any person under obligation to the Exim Bank or anything done in good faith in the execution of the duties of his office or in relation thereto.

34. *Potection of action taken in good fait'.*—No suit or o her legal proceeding shall lie against the Exim Bank or any director or any officer or other employee of the Exim Bank or any other person authorised by the Exim Bank to discharge any functions under this Act for any loss or damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any other law or provision having the force of law.

35. *Act 18 of 1891 to apply in relation to Exim Bank.*—The Bankers' Books Evidence Act, 1891 shall apply in relation to the Exim Bank as if it were a Bank as defined in section 2 of that Act.

36. *Secion 34A and section 36AD only of Act 10 of 1949 to apply to Exim Bank.*—Nothing contained in the Banking Regulation Act, 1949, except section 34A and 36AD thereof, shall apply to the Exim Bank.

37. *Act 43 of 1961 and Act 7of 1964 not to apply to Exim Bank.*—Notwithstanding anything contained in the Income-tax Act, 1961, or the Companies (Profits) Surtax Act, 1964 or any other enactment for the time being in force relating to tax on income, profits or gains, the Exim Bank shall not be liable to pay income-tax, surtax or any other tax in respect of—

(a) any income, profits or gains accruing to the Export Development Fund or any amount received to the credit of that Fund; and

(b) any income, profits or gains derived, or any amount received, by the Exim Bank.

38. *Liquidation of Exim Bank.*—No provision of any law relating to the winding up of companies or corporations shall apply to the Exim Bank and the Exim Bank shall not be placed in liquidation save by an order of the Central Government and in such manner as it may direct.

39. *Power to make regulations.*—(1) The Board may, with the previous approval of the Central Government, make regulations not inconsistent with this Act to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the forgoing power, such regulations may provide for—

(a) the times and places of the meetings of the Board or of any committee constituted under this Act and the procedure to be followed at such meetings including the quorum necessary for the transaction of business;

(b) the fees and allowances that may be paid to the directors and the members of a committee;

(c) the form and manner in which the balance-sheets and the account of the Export Development Fund and the Exim Bank shall be prepared;

(d) the duties and conduct, and the terms and conditions of service of the officers and other employees of the Exim Bank;

(e) the establishment and maintenance of provident fund or any other fund for the benefit of the officers and other employees of the Exim Bank; and

(f) any other matter which is to be, or may be, prescribed.

(3) Every regulation made by the Board under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.

40. *Amendment of certain enactments.*—The enactments specified in the Second Schedule shall be amended in the manner directed in the first column thereof and such amendments shall take effect on the dates specified in the second column of that Schedule.

41. *Power to remove difficulty.*—If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by, order, do anything, not inconsistent with such provisions for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiration of three years from the date on which this Act receives the assent of the President.

THE FIRST SCHEDULE

[*See* section 30 (3)]

DECLARATION OF FIDELITY AND SECRECY

I.........................,do hereby declare that I will faithfully truly and to the best of my skill and ability execute and perform the duties required of me as director, member of....................committee, auditor, officer or other employee (as the case may be) of the Export-Import Bank of India and which properly relate to the office or position held by me in or in relation to the said Exim Bank.

I further declare that I will not communicate or allow to be communicated to any person not legally entitled thereto any information relating to the affairs of the Export-Import Bank of India or to the affairs of any person having any dealing with the said Exim Bank, nor will I allow any such person to inspect or have access to any books or documents belonging to or in the possession of the said Exim Bank and relating to the business of the said Exim Bank or the business of any person having any dealing with the said Exim Bank.

(Signature)

Signed before me.

THE SECOND SCHEDULE

(*See* section 40)

Amendments of certain enactments

PART I

AMENDMENTS TO THE RESERVE BANK OF INDIA ACT, 1934 (2 OF 1934)

Amendments (1)	Date on which amendments shall take effect (2)
1. In section 2, after clause (*bviii*), insert the following clause, namely:— '(*bviiia*) "Exim Bank" means the Export-Import Bank of India established under the Export-Import Bank of India Act, 1981.'.	The date of establishment of the Exim Bank.
2. In section 17,— (*a*) in clause (4G) after the words "the Development Bank", insert the words "or the Exim Bank"; (*b*) in clause (4-1), after the words "Development Bank", insert the words, "the Exim Bank";	do.

Amendment (1)	Date on which amendment shall take effect (2)
(c) after clause (4-1), insert the following clause, namely:— "(4J) the making to the Exim Bank of loans and advances— (a) repayable on demand or on the expiry of a fixed period not exceeding ninety days, from the date of such loan or advance against the security of stocks, funds and securities (other than immovable property) in which a trustee is authorised to invest trust money by any law for the time being in force in India; or (b) against the security of bills of exchange or promissory notes, arising out of *bona fide* commercial or trade transactions bearing two or more good signatures and maturing within five years from the date of such loan or advance ;"; (d) in clause (12B), after the words "the Development Bank", insert the words ", the Exim Bank".	The date of establishment of the Exim Bank.
3. In section 42, in sub-clause (c) of the *Explanation* under the proviso to subsection (1), after the words "or from the Development Bank" insert the words "or from the Exim Bank",	Do.
4. In section 46C, in sub-section (2), after clause (b), insert the following clauses, namely:— "(c) the making to the Exim Bank of loans and advances for the purposes of any business of the Exim Bank; (d) the purchasing of bonds and debentures issued by the Exim Bank.".	Do.

PART II

AMENDMENT TO THE INDUSTRIAL DISPUTES ACT, 1947 (14 OF 1947)

Amendment	Date on which amendment shall take effect
(1)	(2)
In section 2, in clause (*bb*), after the words "and includes", insert the words "the Export-Import Bank of India,".	The date of establishment of the Exim Bank.

PART III

AMENDMENTS TO THE BANKING REGULATION ACT, 1949 (10 OF 1949)

Amendments	Date on which amendments shall take effect
(1)	(2)
1. In section 18, in the *Explanation*, in clause (*b*), after the words "the Industrial Development Bank of India", insert the words "or from the Export-Import Bank of India".	The date of establishment of the Exim Bank.
2. In section 34A, in subsection (3), after the word "includes", insert the words "the Export-Import Bank of India,".	Do.
3. In section 36AD, in sub-section (3), after the word "includes", insert the words "the Export-Import Bank of India,".	Do.
4. In section 56, in clause (*b*) of the *Explanation* under clause (j), after the words "the Industrial Development Bank of India,", insert the words "the Export-Import Bank of India,".	Do.

GOVERNMENT OF KERALA

Law (Legislation-Publication) Department

NOTIFICATION

No. 13911/Leg. Pbn. 2/82/Law. *Dated, Trivandrum, 24th September,* 1982.

The following Act of Parliament, published in a Gazette of India Extraordinary, Part II, Section I, dated the 11th May, 1982, is hereby, republished for general information. The Bill as passed by the Houses of Parliament received the assent of the President on the 11th May, 1982.

By order of the Governor,
K. VISWANATHAN NAIR,
Special Secretary (Law).

THE MAJOR PORT TRUSTS (AMENDMENT) ACT, 1982

An
Act

further to amend the Major Port Trusts Act, 1963

Be it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Major Port Trusts (Amendment) Act, 1982.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Amendment of section* 2.—In section 2 of the Major Port Trusts Act, 1963 (38 of 1963) (hereinafter referred to as the principal Act),—

(a) in clause (e), for the words "the Deputy Chairman of a Board", the words "the Deputy Chairman, or, as the case may be, a deputy chairman of a Board" shall be substituted;

(b) in clause (p),—

(i) after the words "floating barge", the word, "transhipper" shall be inserted;

(ii) the following *Explanation* shall be inserted at the end, namely :—

'*Explanation.*—For the purposes of this clause, "transhipper" means a floating craft or vessel, whether dumb or self-propelled, on which gears are provided for discharging cargo from a barge or wharf and loading it into a ship;'.

3. *Amendment of section* 3.—In section 3 of the principal Act, in sub-section (1), for clause (b), the following clause shall be substituted, namely :—

"(b) one Deputy Chairman or more, as the Central Government may deem fit to appoint;".

4. *Insertion of new section* 14A.—After section 14 of the principal Act, the following section shall be inserted, namely :—

"14A. *Acting Chairman or Deputy Chairman.*—The Central Government may, pending the consideration of the question as to who may be appointed as Chairman or Deputy Chairman of a Board under section 3 or section 4, appoint a person to be the acting Chairman or Deputy Chairman thereof and notify his name in the Official Gazette and the person so appointed shall, until the Central Government by notification in the Official Gazette otherwise directs, be deemed for the purposes of this Act to be the Chairman or Deputy Chairman of such Board appointed under section 3 or section 4, as the case may be.".

5. *Amendment of section* 17.—In section 17 of the principal Act, after subsection (1), the following subsection shall be inserted, namely :—

"(1A) Notwithstanding anything contained in subsection (1) or any other provision of this Act, the Board may appoint a person who is not a Trustee to be a member of any committee constituted under that sub-section and a person so appointed shall for the purpose of the discharge of his functions as such member be deemed to be a Trustee.".

6. *Amendment of section* 18.—Section 18 of the principal Act shall be re-numbered as subsection (1) thereof and after subsection (1) as so re-numbered, the following subsection shall be inserted, namely :—

"(2) A member of a committee appointed under subsection (1A) of section 17 shall be paid the same fees and allowances for attending the meeting of the committee and for attanding to any other work of the Board as are payable to a Trustee under subsection (1):

Provided that the Board may, with the prior approval of the Central Government, pay to any such member fees and allowances at a rate higher than that provided in the case of Trustees.".

7. *Amendment of section* 24.—In section 24 of the principal Act in subsection (1),—

(a) in clause (a), for sub-clause (iii), the following sub-clause shall be substituted, namely :—

"(iii) the maximum of the pay scale of which (exclusive of allowances) exceeds such amount as the Central Government may, by notification in the Official Gazette, fix,";

(b) in the proviso, for the words "at that port", the words "at that or any other port" shall be substituted.

8. *Amendment of section* 25.—In section 25 of the principal Act,—

(a) in subsection (1)—

(i) in the opening portion, after the word "reducing," the words "compulsorily retiring", shall be inserted;

(ii) in the proviso, after the words "reduction in rank," the words "compulsory retirement," shall be inserted;

(b) in subsection (2), in the opening portion, after the words "reduction in rank,", the words "compulsory retirement," shall be inserted.

9. *Amendment of section* 27.—In section 27 of the principal Act, in clause (a), for the words "exceeds two thousand rupees, be exercisable by the Central Government;", the words "exceeds such amount as the Central Government may, by notification in the Official Gazette, fix, be exercisable by that Government;" shall be substituted.

10. *Amendment of section* 28.—In section 28 of the principal Act, in clause (a), after the word "suspension,", the words "reduction in rank, compulsory retirement," shall be inserted.

11. *Amendment of section* 34.—In section 34 of the principal Act, in subsection (1), after the words "the Chairman", the words " or by any such officer of the Board not below the rank of the Head of a department as the Chairman may, by general or special order, authorise in this behalf" shall be inserted.

12. *Amendment of section* 39.—In section 39 of the principal Act, for the words "the Board may charge in respect of such vessel such sum as it thinks fit, not exceeding one thousand rupees", the words "the Board may charge, by way of penalty, in respect of such vessel such sum as it thinks fit, not exceeding ten thousand rupees" shall be substituted.

13. *Amendment of section* 49.—In section 49 of the principal Act, after subsection (2), the following subsection shall be inserted, namely :—

"(3) Notwithstanding anything contained in subsection (1), the Board may, by auction or by inviting tenders, lease any land or shed belonging to it or in its possession or occupation at a rate higher than that provided under subsection (1).".

14. *Amendment of section* 85.—In section 85 of the principal Act, in the proviso, in clause (b), for the words "such amount not exceeding ten lakhs of rupees, as the Central Government may fix in this behalf", the words "such amount as the Central Government may fix in this behalf and different amounts may be fixed with respect to different Boards" shall be substituted.

15. *Amendment of section* 96.—In section 96 of the principal Act,—

(a) in subsection (1), for the proviso, the following proviso shall be substituted, namely :—

"Provided that no such approval of the Central Government shall be necessary where such irrecoverable amount or loss does not exceed, in any individual case and in the aggregate in any year, such amounts as the Central Government may, from time to time, by order, fix and different amounts may be fixed with respect to different boards.";

(b) in subsection (2), for the portion beginning with the words "such amount or loss does not exceed" and ending with the words "reasons for such sanction;", the following shall be substituted, namely :—

"such amount or loss does not exceed, in any individual case and in the aggregate in any year, such amounts as the Central Government may, from time to time, by order, fix and different amounts may be fixed with respect to different Boards.";

(c) after subsection (2), the following subsection shall be inserted, namely :—

"(3) In every case in which the Chairman sanctions the writing off of any amount or loss under subsection (2), he shall make a report to the Board giving reasons for such sanction,".

16. *Amendment of section* 113.—In section 113 of the principal Act,—

(a) for the words "one thousand rupees", the words "ten thousand rupees" shall be substituted;

(b) for the words "one hundred rupees", the words "one thousand rupees" shall be substituted.

17. *Amendment of section* 114.—In section 114 of the principal Act,—

(a) for the words "one thousand rupees", the words "ten thousand rupees" shall be substituted;

(b) for the words, "one hundred rupees", the words "one thousand rupees" shall be substituted.

18. *Amendment of section* 115.—In section 115 of the principal Act,—

(a) for the word "twice", the words "ten times" shall be substituted;

(b) for the words "fifty rupees", the words "five hundred rupees" shall be substituted.

19. *Amendment of section* 117.—In section 117 of the principal Act, for the words "two hundred rupees", the words "two thousand rupees" shall be substituted.

20. *Amendment of section* 124.—In section 124 of the principal Act,—

(a) in subsection (2), after the words "such regulation", the words "other than a regulation made under section 28", shall be inserted;

(b) in subsection (3),—

(a) for the words "two hundred rupees", the words "two thousand rupees" shall be substituted;

(b) for the words "fifty rupees", the words "five hundred rupees" shall be substituted;

(c) after subsection (3), the following subsection shall be inserted, namely:—

"(4) Every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.".

Kerala Gazette No. 43 dated 2nd November 1982.
PART I Section iii

കേരള സർക്കാർ

നിയമ (നിയമനിർമ്മാണ-എ) വകുപ്പ്

വിജ്ഞാപനം

നമ്പർ 13442-ലെഗ്. എ2/82/ലം. തിരുവനന്തപുരം, 1982 സെപ്റ്റംബർ 17/1904 ഭാദ്രം 26.

കേരള സംസ്ഥാന നിയമസഭയുടെ താഴെപ്പറയുന്ന ആക്റ്റ് പൊതുജനങ്ങളുടെ അറിവിനായി ഇതിനാൽ പ്രസിദ്ധപ്പെടുത്തുന്നു. നിയമസഭ പാസ്സാക്കിയ പ്രകാരമുള്ള ബില്ലിന് 1982 സെപ്റ്റംബർ 16-ാം തീയതി ഗവർണ്ണറുടെ അനുമതി ലഭിച്ചു.

ഗവർണ്ണറുടെ ഉത്തരവുപ്രകാരം,
കെ. വിശ്വനാഥൻ നായർ,
ഗവൺമെൻറ് സ്പെഷ്യൽ സെക്രട്ടറി (നിയമം.)

1982-ലെ I-ാം ആക്റ്റ്

1982-ലെ കേരള ധനവിനിയോഗ ആക്റ്റ്

1982 ഏപ്രിൽ 1-ാം തീയതി ആരംഭിക്കുന്ന സാമ്പത്തിക വർഷത്തിൽ ഉപയോഗിക്കുന്നതിനായി കേരള സംസ്ഥാന സഞ്ചിതനിധിയിൽ നിന്നും ചില തുകകൾ പിൻവലിക്കുന്നതിന് വ്യവസ്ഥ ചെയ്യുന്നതിനുള്ള ഒരു ആക്റ്റ്.

പീഠിക.—1982 ഏപ്രിൽ 1-ാം തീയതി ആരംഭിക്കുന്ന സാമ്പത്തിക വർഷത്തിൽ ഉപയോഗിക്കുന്നതിനായി കേരള സംസ്ഥാന സഞ്ചിതനിധിയിൽനിന്നും ചില തുകകൾ പിൻവലിക്കുന്നതിന് വ്യവസ്ഥ ചെയ്യേണ്ടത് ആവശ്യമായിരിക്കുകയാൽ ;

ഇൻഡ്യൻ റിപ്പബ്ലിക്കിന്റെ മുപ്പത്തിമൂന്നാംസംവൽസരത്തിൽ താഴെ പറയുംപ്രകാരം നിയമമുണ്ടാക്കുന്നു:—

1. ചുരുക്കപ്പേര്.—ഈ ആക്റ്റിന് 1982-ലെ കേരള ധനവിനിയോഗ ആക്റ്റ് എന്ന് പേർ പറയാം.

സാമ്പത്തിക വർഷ
ഏപ്രിൽ 1-ാം തീയതി ആരംഭിക്കുന്ന
സംസ്ഥാന സഞ്ചിതനിധിയിൽ നിന്നും 11,24,71,90,100 രൂപ
പട്ടികയിലെ (2)-ാം കാളത്തിൽ പറഞ്ഞിട്ടുള്ള സർവ്വീസു
ങ്ങളും സംബന്ധിച്ച് 1982 ഏപ്രിൽ മാസം 1-ാം തീയതി
സാമ്പത്തിക വർഷത്തിൽ തുകകൾ നൽകുമ്പോൾ വന്നു
വിധ ചാർജ്ജുകൾ നേരിടുന്നതിലേക്കായി മൊത്തത്തിൽ
ുന്നൂററി ഇരുപത്തിനാല്കോടി എഴുപത്തിഒന്ന് ലക്ഷത്തി
ത്തി ഒരുന്നൂറ് രൂപ [1982-ലെ കേരള ധനവിനിയോഗ (വോട്ട്
്) ആക്റ്റ് (1982-ലെ 9-ാം കേന്ദ്ര ആക്റ്റ്) 2-ാം വകുപ്പിൽ
ഞ്ഞിട്ടുള്ള അഞ്ഞൂററിഅൻപത്തിരണ്ടുകോടി തൊണ്ണൂറ് ലക്ഷത്തി
ായിരത്തി അഞ്ഞൂറ് രൂപ ഉൾപ്പെടെ] വരുന്നതും പട്ടികയുടെ
ിൽ പറഞ്ഞിട്ടുള്ളതിൽ കവിയാത്തതുമായ തുകകൾ കേരള
സഞ്ചിതനിധിയിൽ നിന്നും കൊടുക്കുകയും വിനിയോഗിക്കു
വുന്നതാണ്.

വിനിയോഗം.—ഈ ആക്റ്റു മൂലം കേരള സംസ്ഥാന സഞ്ചിത
നിന്നും കൊടുക്കുന്നതിനും വിനിയോഗിക്കുന്നതിനും അധികാര
തുകകൾ പ്രസ്തുത വർഷം സംബന്ധിച്ച പട്ടികയിൽ പറ
സർവ്വീസുകൾക്കും ആവശ്യങ്ങൾക്കുംവേണ്ടി വിനിയോഗിക്കേണ്ട

പട്ടിക

(2-ഉം 3-ഉം വകുപ്പുകൾ നോക്കുക)

വോട്ടു നമ്പർ	സർവ്വീസുകളും ആവശ്യങ്ങളും		നിയമസഭ വോട്ടു ചെയ്തതിൽ	സഞ്ചിതനിധിയിൽ ചാർജ്ജ് ചെയ്തതിൽ	ആകെ
			കവിയാത്ത തുകകൾ		
			രൂപ	രൂപ	രൂപ
(1)	(2)		(3)		(4)
I	സംസ്ഥാന നിയമസഭ	റവന്യൂ	87,38,000	1,50,000	88,88,000
II	സംസ്ഥാന തലവൻമാരും മന്ത്രിമാരും ആസ്ഥാന ഉദ്യോഗസ്ഥൻമാരും	,,	6,65,34,800	1,25,82,600	7,91,17,400
III	നീതിന്യായ നിർവ്വഹണം	,,	6,59,89,000	72,06,800	7,31,95,800
IV	തെരഞ്ഞെടുപ്പുകൾ	,,	1,44,32,100	..	1,44,32,100
V	കാർഷികാദായനികുതിയും വിൽപ്പന നികുതിയും	,,	4,76,90,500	35,000	4,77,25,500
VI	ഭൂനികുതി	,,	12,02,05,000	1,65,500	12,03,70,500
VII	സ്റ്റാമ്പും രജിസ്ട്രേഷനും	,,	4,03,73,700	..	4,03,73,700
VIII	എക്സൈസ്	,,	3,38,16,700	15,000	3,38,31,700
IX	വാഹന നികുതികൾ ഋണ ബാദ്ധ്യതകൾ	,,	1,03,59,900	1,000	1,03,60,900
X	ട്രഷറിയും കണക്കുകളും	,,	3,49,80,700	..	3,49,80,700
XI	ജില്ലാ ഭരണവും പലവകയും	,,	5,33,80,900	71,000	5,80,51,900
XII	പോലീസ്	,,	45,20,33,500	10,100	45,20,43,600
XIII	ജയിലുകൾ	,,	1,81,15,900	10,000	1,81,25,900

(1)	(2)		(3)		(4)
	ലേഖന സാമഗ്രികളും				
XIV	അച്ചടിയും രേണപരമായ റൊറു സർവ്വീസുകളും	റവന്യൂ	6,11,63,800	..	6,11,63,800
XV	പൊതുമരാമത്തുകരം	,,	39,02,13,200	8,00,000	39,10,13,200
		മൂലധനം	16,57,06,200	4,10,000	16,61,16,200
XVI	പെൻഷനും പലവകയും	റവന്യൂ	43,54,14,700	24,46,400	43,78,61,100
XVII	വിദ്യാഭ്യാസവും, കലയും സംസ്ക്കാരവും	റവന്യൂ	2,70,64,53,900	6,01,000	2,70,70,54,900
		മൂലധനം	4,68,91,000	50,000	4,69,41,000
XVIII	മെഡിക്കൽ	റവന്യൂ	57,99,65,600	12,100	57,99,77,700
		മൂലധനം	3,68,15,000	1,00,000	3,69,15,000
XIX	കുടുംബക്ഷേമം	റവന്യൂ	7,92,95,500	..	7,92,95,500
		മൂലധനം	50,00,000	..	50,00,000
XX	പൊതുജനാരോഗ്യം	റവന്യൂ	8,15,30,100	1,000	8,15,31,100
XXI	പൊതുജനാരോഗ്യ എഞ്ചിനീയറിംഗ്	റവന്യൂ	14,24,21,300	10,000	14,24,31,300
		മൂലധനം	18,77,98,700	7,30,000	18,85,28,700
XXII	ഭവന നിർമ്മാണം	റവന്യൂ	3,75,21,200	1,00,000	3,76,21,200
		മൂലധനം	4,75,55,000	3,00,000	4,78,55,000
XXIII	നഗരവികസനം	റവന്യൂ	2,93,11,600	...	2,93,11,600
		മൂലധനം	87,75,000	...	87,75,000
XXIV	വാർത്താവിതരണവും പ്രസിദ്ധീകരണവും	റവന്യൂ	96,75,000	...	96,75,000
XXV	തൊഴിലാളികളും തൊഴിലും	റവന്യൂ	17,73,95,300	1,000	17,73,96,300
		മൂലധനം	9,00,100	..	9,00,100
XXVI	ഹരിജനക്ഷേമം ഉൾപ്പെടെയുള്ള സാമൂഹ്യക്ഷേമം	റവന്യൂ	53,33,12,900	7,000	53,33,19,900
		മൂലധനം	1,01,59,300	..	1,01,59,300
XXVII	പ്രകൃതിക്ഷോഭംസംബന്ധിച്ച ദുരിതാശ്വാസം	റവന്യൂ	1,59,00,000	...	1,59,00,000

(1)	(2)		(3)		(4)
XLII	വിനോദ സഞ്ചാരം	റവന്യൂ	1,33,33,300	..	1,33,33,300
		മൂലധനം	1,34,00,000	..	1,34,00,000
XLIII	നഷ്ടപരിഹാരവും പതിച്ചു കൊടുക്കലും പൊതുക്കടം മടക്കികൊടുക്കലും.	റവന്യൂ	92,33,000	..	92,33,000
		മൂലധനം	..	..	..
XLIV	കണ്ടിജൻസി ഫണ്ട്				
XLV	പലവക വായ്പകളും മുൻകൂറുകളും	മൂലധനം	5,41,15,100	..	5,41,15,100
	ആകെ		9,74,56,88,300	1,50,15,91,800	11,24,71,90,100

(ശരിത്തർജ്ജമ)

കെ. കെ. രവീന്ദ്രൻപിള്ള,
ഗവൺമെൻറ് അണ്ടർ സെക്രട്ടറി.

GOVERNMENT OF KERALA

Labour (F) Department

NOTIFICATION

G. O. (Rt.) 811/82/LBR. *Dated, Trivandrum, 30th July* 1982.

S.R.O. No. 1271/82.—In exercise of the powers conferred by section 88 of the Employees' State Insurance Act, 1948 (Central Act 34 of 1948), read with section 91-A thereof, the Government of Kerala, in consultation with the Employees' State Insurance Corporation, hereby exempt the regular employees of Dry Dock and Workshop, Alleppey, from the operation of the provisions of the said Act for a further period the 1st July, 1979 upto and inclusive of the 30th September, 1982 subject to the following conditions, namely:—

1. The establishments shall maintain a register showing the names and designations of its employees;

2. Notwithstanding this exemption, the employees shall continue to receive such benefits under the said Act to which they might have become entitled to on the basis of the contributions paid prior to the date from which exemption granted by this notification operates;

3. The contribution for the exempted period, if already paid, shall not be refunded;

4. The establishments shall submit in respect of the period during which it was subject to the operation of the said Act (hereinafter referred to as the said period), such returns in such form and containing such particulars as were due from it in respect of the said period under the Employees' State Insurance (General) Regulations, 1950;

5. Any Inspector appointed by the Corporation under subsection (1) of section 45 of the said Act, or other official of the Corporation authorised in this behalf shall, for the purposes of—

(i) verifying the particulars contained in any return submitted under subsection (1) of section 44 of the said Act; or

(ii) ascertaining whether registers and records were maintained as required by the Employees' State Insurance (General) Regulations, 1950 for the said period; or

(iii) ascertaining whether the employees continue to be entitled to the benefits provided by the employer in cash and kind being benefits in considerations of which exemption is being granted under this notifications; or

(iv) ascertaining whether any of the provisions of the said Act had been complied with during the period when such provisions were in force in relation to the said establishments be empowered to—

(a) require the establishments to furnish to him such information as he may consider necessary; or

(b) enter any factory, establishment, office or other premises occupied by the said establishments at any reasonable time and require any person found in charge thereof to produce to such Inspector or other official and allow him to examine such documents, books and other documents, relating to the employment of persons and payment of wages or to furnish to him such information as he may consider necessary; or

(c) examine the officers of the establishments or the servants of the said establishments or any person found in such factory establishment, office or other premises, or any person whom the said Inspector or other official has reasonable cause to believe to have been an employee; or official has reasonable cause to believe to have been an employee; or

(d) make copies of or take extracts from any register, account book or other documents maintained in such society, establishment, office or other premises of the said establishments.

By order of the Governor,

V. KRISHNAMURTHY,
Secretary to Government.

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport.)

As per G.O. (Rt.) 801/80/LBR dated 30-6-1980 the regular employees of the Dry Dock and Workshop, Alleppey has been exempted from the operation of the provisions of ESI. Act for a period upto 30-6-1979 under Section 88 of the ESI. Act. The Regional Director, E.S I. Corporation, Trichur as per his letters No. 54-P. 13/15/76 (42) Ins. VIII dated 24-1-1980, 8-5-1981, 18-1-1982 and 2-3-1982 recommended to Government to exempt there employees from the provisions of the Employees' State Insurance Act for a further period from 1-7-1979 to 30-9-1982 as a special case pending review of exemption policy. Government accepted the recommendation of the Employees' State Insurance Corporation. The notification is intended to achieve the above object.

Kerala Gazette No. 43 dated 2nd November 1982.
PART I Section iv

GOVERNMENT OF KERALA

Transport, Fisheries and Ports (Transport—C) Department

NOTIFICATION

No. 12256/TC2/82/TF&P. *Dated, Trivandrum,* 23*rd September* 1982.

S.R.O. No. 1276/82.—Whereas representation has been received by Government from the Stage Carriage Operator Shri A. G. Nandakumar, Ainikunnath House, Chiyyaram P. O., Ollur, Trichur that the vehicle tax for the quarter ended on the 31st December 1981, 31st March, 1982 and 30th June 1982 in respect of the Stage Carriage bearing Registration Number KLF 2054 could not be remitted within the prescribed period due to financial strain and that extension of time for payment of vehicle tax in respect of this vehicle may, therefore, be granted;

And whereas, the Government are convinced that circumstances existed that the operator of the said stage carriage could not remit the vehicle tax in respect of the said stage carriage ordinarily kept for use in the State for the quarter ended on the 31st December, 1981, 31st March, 1982 and 30th June 1982 due to financial strain;

And whereas, the Government are convinced that non-operation of the said stage carriage due to non-payment of tax would have caused great inconvenience to the travelling public;

And whereas, the Government consider it necessary to extend in public interest the time for payment of the vehicle tax for the quarter ended on the 31st December, 1981, 31st March, 1982 and 30th June, 1982 in respect of the said stage carriage;

Now, therefore, in exercise of the powers conferred by section 22 of the Kerala Motor Vehicles Taxation Act, 1976 (19 of 1976), read with rule 5 of the Kerala Motor Vehicles Taxation Rules, 1975, the Government of Kerala hereby order that the vehicle tax for the quarter ended on the 31st December, 1981, 31st March, 1982 and 30th June 1982 in respect of the said stage carriage ordinarily kept for use in the State shall be paid on or before the 30th June, 1982 together with additional tax payable under section 12 of the Kerala Motor Vehicles Taxation Act, 1976 read with the notification (5) No. 33942/TC2/75-5/PW. dated the 29th September, 1975 published as S.R.O. No. 876/75 in the Kerala Gazette Extraordinary No. 572 dated the 29th September, 1975.

By order of the Governor,

T. SANKARAN,

Additional Secretary to Government.

[P. T. O.]

G. 1403

Explanatory Note

(This is not part of the notification, but is intended to indicate the main purpose of the issue of the notification.)

Government have received representation from the Stage Carriage Operator as shown in the notification requesting extension of time for payment of vehicle tax for the quarter ended 31st December, 1981, 31st March 1982 and 30th June 1982 due to financial strain;

Government are convinced of the position and in public interest, grant extension of time for payment of tax as otherwise these vehicles might be put out of operation for non-payment of tax causing great inconvenience to the travelling public.

GOVERNMENT OF KERALA

Transport, Fisheries and Ports (Transport-C) Department

NOTIFICATION

No. 10153/TC2/82/TF&P. *Dated, Trivandrum, 27th July* 1982.

S. R. O. No. 1277/82.—Whereas representations have been received by Government from the Stage Carriage Operator specified in the annexure to this notification, that the vehicle tax for the quarter ended on the 31st March, 1982 and 30th June, 1982 in respect of the Stage Carriages particulars of which are specified in the said annexure could not be remitted within the prescribed period due to financial strain and that extension of time for payment of vehicle tax in respect of these vehicles may, therefore, be granted;

And whereas, the Government are convinced that circumstances existed that the operators of the said stage carriages could not remit the vehicle tax in respect of the said stage carriages ordinarily kept for use in the State for the quarter ended on the 31st March, 1982 and 30th June, 1982 due to financial strain;

And whereas, the Government are convinced that non-operation of the said stage carriages due to non-payment of tax would have caused great inconvenience to the travelling public;

And whereas, the Government consider it necessary to extend in public interest, the time for payment of the vehicle tax for the quarter ended on the 31st March, 1982 and 30th June 1982 in respect of the said stage carriages;

Now, therefore, in exercise of the powers conferred by section 22 of the Kerala Motor Vehicles Taxation Act, 1976 (19 of 1976), read with rule 5 of the Kerala Motor Vehicles Taxation Rules, 1975, the Government of Kerala hereby order that the vehicle tax for the quarter ended on the 31st March, 1982 and 30th June, 1982 in respect of the said stage carriages ordinarily kept for use in the State shall be paid on or before the 31st May, 1982 together with additional tax payable under Section 12 of the Kerala Motor Vehicles Taxation Act, 1976 read with the Notification (5) No. 33942/TC2/75-5/PW dated the 29th September, 1975 published as S. R. O. No. 876 75 in the Kerala Gazette Extraordinary No. 572 dated the 29th September, 1975.

ANNEXURE

Sl. No.	Name of Stage Carriage Operator	Registration No. of the Stage Carriage
1.	Shri K. C. David, Kodiveed, Chirattapalam, Cochin-1	KRE. 3399
2.	Shri P. A. Ali, Pathiyamparambil House, Padiyam, Trichur	KLH. 1980
3.	Shri T. K. Muraleedharan, Thoppil House, Pamboor, Trichur	KLO. 3238
4.	Shri I. G. Ittoop, Irumpan House, Puvathussery, Trichur	KLH. 6722
5.	Shri Francis D' Almeda, L. P. Cottage, Palliport, Ernakulam	KLP. 645
6.	Shri M. A. Noorudeen, Manapurath House, Nayarambalam, Ernakulam	KRF. 6959
7.	Smt. P. P. Ramani, Puthenpurakkal House, Murikkumpadam, Cochin	KRE. 6676
8.	Shri Sunny Poulose, Vettikkaparambil, Edayar P.O., Ernakulam	KRF. 8330

By order of the Governor,
P. SANKARAN NAIR,
Additional Secretary to Government.

Explanatory Note

(This is not part of the notification, but is intended to indicate the main purpose of the issue of the notification).

Government have received certain representations from the Stage Carriage Operators as shown in the annexure requesting extension of time for payment of vehicle tax for the quarter ended 31st March, 1982 and 30th June, 1982 due to financial strain;

Government are convinced of the position and in public interest, grant extension of time for payment of tax as otherwise these vehicles might be put out of operation for non-payment of tax causing great inconvenience to the travelling public.

GOVERNMENT OF KERALA

Local Administration and Social Welfare (C) Department

NOTIFICATION

G.O. Ms. No. 176/82/LA&SWD. *Dated, Trivandrum, 5th October* 1982.

S.R.O. No. 1278/82.—In exercise of the powers conferred by subsection (1) of section 66A of the Kerala Panchayats Act, 1960 (32 of 1960), the Government of Kerala hereby make the following further amendment to the Notification issued in G. O. MS. 67/70/LAD. dated the 7th November, 1970 and Published as S. R. O. No. 403/70 in Part I of the Kerala Gazette No. 45 dated the 10th November, 1970 as subsequently amended, namely:—

AMENDMENT

In the Schedule to the said Notification, after item (9) and the entries against it, the following shall be added, namely:—

"10. Excess lands taken over by, or vested in, the Government under the ceiling provisions of the Kerala Land Reforms Act, 1963 (1 of 1964) till they are assigned".

By order of the Governor,
M. S. K. RAMASWAMY,
Special Secretary to Government.

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport.)

The Secretary, Land Board has requested Government to exempt the lands taken over by the Government under the ceiling provisions of the Kerala Land Reforms Act from the payment of land cess under section 66A of the Kerala Panchayat Act for the period during which the lands are with Government. Government have considered the request of the Land Board and decided to exempt the lands taken over by the Government under the ceiling provisions of the Kerala Land Reforms Act from the payment of land cess under section 66A of the Kerala Panchayat Act 1960 till they are leased out.

This notification is intended to achieve the above object.

GOVERNMENT OF KERALA

Transport, Fisheries and Ports (Transport-B) Department

NOTIFICATION

G. O. Rt. No. 850/82/TF & P. *Dated, Trivandram, 14th October* 1982.

S. R. O. No. 1279/82.—Whereas Shri P. Bhaskara Menon, Usha Lorry Service, Cochin-18 has purchased a vehicle the details of which are hereunder given for the purpose of plying it as a contract carriage;

And whereas, the overall width overall length and overhang of the said vehicle exceed the limits prescribed under sub-rule (1) of rule 265, sub-rule (2) of rule 267 and rule 294 respectively, of the Kerala Motor Vehicles Rules, 1961 ;

And whereas, the Government of Kerala are satisfied that the said vehicle can conveniently be used as a contract carriage with such excess measurements in overall width, overall length and overhang;

Now, therefore, in exercise of the powers conferred by rule 368 of the Kerala Motor Vehicles Rules, 1961, the Government of Kerala hereby exempt the said vehicle from the provisions of sub-rule (1) of rule 265, sub-rule (2) of rule 267 and rule 294 of the said Rules.

DETAILS OF THE VEHICLES

Engine No.— ALI-94882
Chassis No.—ALB-104934
Overall width—250 Centimetres
Overall length—1025 Centimetres
Overhang—60% of the wheel base
Wheel base—210" (533.4 Centimetres)
Tamil Nadu Registration No.—TMN 8220

By order of the Governor,
T. SANKARAN,
Additional Secretary to Government.

Explanatory Note

(This is not part of the notification but is intended to indicate its main purport).

Shri P. Bhaskara Menon, Usha Lorry Service, Cochin-18 has requested to exempt the vehicle mentioned in the above notification from the provisions of sub-rule (1) of rule 265, sub-rule (2) of rule 267 and rule 294 of the Kerala Motor Vehicles Rules, 1961, as the overall width, overall length and overhang of the vehicle exceed the measurements prescribed under these rules. Government have considered the request and have decided o grant the exemption sought for. Hence this notification.

GOVERNMENT OF KERALA

Transport, Fisheries & Ports (Transport B) Department

NOTIFICATION

G.O.Rt. No. 814/82/TF&P. *Dated, Trivandrum, 28th September* 1982.

S.R.O.No. 1280/82. Whereas the Director Social Action, Archdiocese of Trivandrum is using the Mercedez Benz vehicle bearing Registration No. KLT. 8427 as a private carrier goods vehicle exclusively for the purpose of transporting food gifts for free distribution to entitled beneficiaries or for other charitable purposes and is not hired out for commercial purposes;

And whereas, the said vehicle has not been painted either fully or its front and rear portions in highway yellow colour as required under rule 331A of the Kerala Motor Vehicles Rules, 1961;

And whereas, the Director Social Action, Archdiocess, has requested for exemption from rule 331A of the said Rules for retaining the original colour of the said vehicle;

And whereas, the Government of Kerala consider that exemption of the vehicle from rule 331A of the said Rules may be granted considering the facts that the said vehicle is exlusively used for the purpose of transporting food gifts for free distribution to entitled beneficiaries or for other charitable purposes and is not hired out for commercial purposes;

Now, Therefore, in exercise of the powers conferred by rule 368 of the Kerala Motor Vehicles Rules, 1961, the Government of Kerala hereby exempt the said vehicle from the provisions of rule 331A of the said Rules.

By order of the Governor,

T. SANKARAN,

Additional Secretary to Government.

Explanatory Note

(This is not part of the notification but is intended to indicate its main purport.)

The Director, Social Action Archdiocese of Trivandrum has requested Government to exempt the vehicle mentioned in the above notification from the provisions of rule 331 A of the K M V. Rules, 1961, since the vehicle is registered as a Private Carrier Goods Vehicle and is used exclusively for transporting food gifts for free distribution to entitled beneficiaries and other charitable purposes and is not hired out for commercial purposes. Rule 331-A of the Kerala Motor Vehicle Rules, 1961, provides that every goods vehicle shall be painted either fully or front and rear portions in highway yellow colour. Government have considered the request and decided to grant the exemption sought for. Hence this notification.



GOVERNMENT OF KERALA

General Administration (Services H) Department

NOTIFICATION

G. O. (P) No. 335/82/GAD. *Dated, Trivandrum, 25th October* 1982

S. R. O. No. 1303/82.—In exercise of the powers conferred by sub-section (1) of section 2 of the Kerala Public Services Act, 1968 (19 of 1968), the Government of Kerala hereby make the following amendments to the Special Rules for the Kerala State Planning Subordinate Service, published under Notification G.O. (P) No. 56/74/Plg. dated the 13th December, 1974, as S.R.O. No. 8/75 in Part I of the Kerala Gazette No. 1 dated the 7th January, 1975, as subsequently amended, namely:—

AMENDMENTS

In the said rules,—

(a) in rule 2, for the entry in column (2) against category "1. Research Assistant" in column (1), the following shall be substituted, namely:—

"(i) By transfer of qualified Junior Superintendents employed in the State Planning Board;

or

(ii) In the absence of qualified hands for transfer under item (i) above, by transfer of qualified U.D. Clerks having a minimum service of five years in the category of U. D. Clerks in the State Planning Board;

or

(iii) By direct recruitment.

Note:—The appointment by transfer and by direct recruitment shall be in the ratio of 1:4 of the total number of vacancies arising in a year. Leave and other vacancies of less than six months duration shall not be taken into account in calculating the total number of vacancies.

(b) after rule 5, the following rule shall be inserted, namely:—

5A—No person appointed as Research Assistant by transfer from the Ministerial side shall have any claim for promotion again in the ministerial side."

By order of the Governor,
P. VISWANATHAN NAIR,
Additional Secretary to Government

Explanatory Note

(This note does note form part of the notification but is intended to indicate its general purport.)

At present the method of appointment to the category of Research Assistant in the State Planning Board is only by direct recruitment. Since the chances of promotion to the supervisory cadres in the Administrative Branch of the State Planning Boar are very limited the Superintendents and Clerks of the State lanning Board have represented that those of the Junior Superintendents and Clerks who possess the educational qualifications prescribed for direct recruitment may be considered for appointment by transfer to the category of Rearch Assistant. This notification is intended to achieve the above object.

GOVERNMENT OF KERALA

Higher Education (E) Department

NOTIFICATION

G.O. (Ms). No. 154/82/H. Edn. *Dated, Trivandrum, 15th October* 1982.

S.R.O. No. 1304/82.—In exercise of the powers conferred by subsection (1) of section 4 of the Charitable Endowments Act, 1890 (Central Act 6 of 1890), the Government of Kerala hereby order that the property specified in column (2) of the Schedule appended herewith belonging to the Endowment mentioned in column (1) thereof, shall be vested with the Treasurer of Charitable Endowments, Kerala, and under subsections (1) and (3) of section 5 of the said Act, the Government of Kerala hereby settle the following Scheme for administration of the said property, the same having been previously published under rule 3 of the Charitable Endowments (Kerala) Rules, 1966, and appoint the date of publication of this notification to be the date on which the said Scheme shall come into operation, namely:—

SCHEME

1. This Endowment may be called "Cheruthitta Gourikutty Amma Endowment Fund".

2. The corpus of the Endowment shall consist of Rs. 1,000 (Rupees One thousand only) and shall be vested with the Treasurer of Charitable Endowments, Kerala.

3. The corpus of the Endowment shall be invested in any long term securities of the Government of India or the Government of Kerala or in any of the securities approved by the Government of Kerala.

4. The Headmistress, Government Girls High School, Cotton Hill, Trivandrum shall be the Administrator of the fund.

5. The annual interest accruing on the Fund shall be utilised during the succeeding year for awarding a prize in kind on the occasion of school day celebration or in any other occasion in the academic year as decided by the Administrator.

6. The prize shall be awarded to a student of the Government Girls High School, Cotton Hill who has passed the S.S.L.C. Examination during the previous year in the first attempt securing the highest number of marks.

7. If, in any year, two or more pupils secure the same number of highest marks, when the amount shall be divided equally among them and the prizes awarded accordingly.

8. Requisition for payment of annual interest shall be sent by the Administrator to the Treasurer of Charitable Endowments at any time not later than two months prior to the date fixed for the award of the prize and the Treasurer of Charitable Endowments shall, thereupon arrange to place the annual interest at the disposal of the Administrator.

9. If the interest is not utilised as provided in clause 5 or if the prize is not awarded owing to the non-availability of a suitable candidate or for any other reason, or any balance is left after awarding the prize such amount shall be added on to the corpus of the fund by the Treasurer of Charitable Endowments, unless its payment is allowed by the Treasurer in exceptional cases on the specific recommendation of the controlling authority specified in clause 10.

10. If any doubt or dispute arises regarding the meaning or interpretation of the Scheme, it shall be referred to the Director of Public Instruction whose decision thereon shall be final.

SCHEDULE

Name of Endowment	*Details of Property*
(1)	(2)
"Cheruthitta Gourikutty Amma Endowment Fund".	Rs. 1,000 (Rupees One thousand only)

By order of the Governor,

A. RAMASWAMI PILLAI,

Joint Secretary to Government.

Explanatory Note

(This does not form part of the notification but is intended to indicate its general purport)

Sri K. S. Kurup, Cheruthitta, Jagathy, Trivandrum-14 wishes to institute and endowment in the name of his mother, Gourikutty at Government Girls High School, Cotton Hill, Trivandrum Preliminary notification regarding this has been published in the Gazette dated 27-7-1982. Now Government have accepted the endowment for institution and hence this notification.

Government of Kerala
1982

Reg. No. KL/TV(N)/12



KERALA GAZETTE
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. XXVII] Trivandrum, Tuesday, 2nd November 1982 / 11th Karthika 1904 [No. 789

GOVERNMENT OF KERALA

Health (F) Department

NOTIFICATION

No. 52177/F2/82/HD-1. *Dated, Trivandrum, 1st November* 1982.

The following will be added as sub-clause (c) under clause 8 of the scheme for the Common Entrance Examination for M.B.B.S./B.D.S./B.Sc. (Nursing) Course 1982-83 published as G.O.MS. No. 99/82/HD dated 29-4-1982 in the Kerala Gazette Extraordinary dated 29-4-1982 and as amended in Notification No. 19384/F2/82/HD. dated 13-10-1982 published as Kerala Gazette Extraordinary dated 13-10-1982.

"(c) If the tie still persists the aggregate marks secured by the candidate for Science subjects, at the qualifying examination, Pre-degree or B.Sc. as the case may be will be taken into account and the candidate with higher marks will be ranked higher".

By order of the Governor,

N. Krishnan Nair,

Special Secretary to Government.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1982.

33/3923/MC.

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1982

Reg. No. KL/TV(N)/12



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EXTRAORDINARY

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GOVERNMENT OF KERALA

Health (F) Department

NOTIFICATION

No. 52177/F2/82/HD-2. *Dated, Trivandrum, 1st November* 1982.

The following will be added as sub-clause (c) of clause 10, clause 9 and clause 7 of the prospectus for admission to (i) M.B.B.S. (ii) B.D.S. & B. Pharm and (iii) B.Sc. (Nursing) Courses respectively.

"(c) If the tie still persists the aggregate marks secured by the candidate for science subjects at the qualifying examination, pre-degree or B.Sc. as the case may be will be taken into account and the candidates with higher marks will be ranked higher".

By order of the Governor,

N. Krishnan Nair,
Special Secretary to Government.

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33/3924/MC.

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1982



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GOVERNMENT OF KERALA

Health (F) Department

NOTIFICATION

No. 44509/F2/82-1/HD. *Dated, Trivandrum,* 1*st November* 1982.

The following shall be added to clause 6 (d) of the prospectus for admission to M.B.B.S. Course 1982-83.

"Selection of candidates will be made by a Committee consisting of Special Secretary (Health) (Chairman); Special Secretary (GAD); President, Kerala Sports Council or his nominee; Principal, Medical College, Kottayam; Principal, Medical College, Alleppey; Principal, Medical College, Calicut; Principal, Medical College, Trichur (Members) and Principal, Medical College, Trivandrum (Convener)".

By order of the Governor,

N. Krishnan Nair,

Special Secretary to Government.

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33/3925/MC.

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1982

Reg. No. KL/TV(N)/12



KERALA GAZETTE

EXTRAORDINARY

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GOVERNMENT OF KERALA

Health (F) Department

NOTIFICATION

No. 44509/F2/82-2/H.D. *Dated, Trivandrum, 1st November*, 1982.

The following shall be added to clause 6(c) of the prospectus for admission to B.D.S. Course 1982-83.

"Selection will be made by a Committee Consisting of Special Secretary (Health) (Chairman), Special Secretary (GAD), President, Kerala Sports Council or his nominee, Principal, Medical College, Calicut and Principal, Medical College, Trivandrum (Convener)".

By order of the Governor,

N. Krishnan Nair,
Special Secretary to Government.

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KERALA GAZETTE

EXTRAORDINARY

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Vol. XXVII] Trivandrum, Tuesday, 2nd November 1982 / 11th Karthika 1904 [No. 793

GOVERNMENT OF KERALA

Health (F) Department

NOTIFICATION

No. 44509/F2/82-3/HD. *Dated, Trivandrum, 1st November* 1982.

The following shall be added to clause 6(c) of the prospectus for admission to B.Pharm. Course 1982-83.

"Selection will be made by a Committee consisting Special Secretary (Health) Chairman, Special Secretary (GAD), President, Kerala Sports Council or his nominee, Principal, Medical College, Trivandrum (Convener)".

By order of the Governor,

N. Krishnan Nair,

Special Secretary to Government.

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KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXVII] Trivandrum, Tuesday, 2nd November 1982 / 11th Karthika 1904 (Saka) [No. 796

NOTIFICATIONS

Under Section 6 of the Kerala Survey and Boundaries Act, 1961

Whereas the Government have directed the survey of lands comprised in Survey numbers and villages noted below, it is hereby notified under subsection (1) of section 6 of the Kerala Survey and Boundaries Act, 1961, that survey operation will be started in the village soon and the survey numbers of the said villages noted below will be demarcated and surveyed, and that every person claiming to be interested in the registered lands situated within or adjoining the undermentioned lands is hereby invited to attend immediately either in person or by agent on the surveyor employed in the locality and also from time to time when called upon for the purpose of pointing out the boundaries and supplying information in connection therewith.

Under subsection (2) of section 6 of the said Act, this notification, shall be held to be a vaild notice, to every person having any interest in the said lands.

Under subsection (3) of section 6 of the above said Act, all the registered holders are hereby required:—

(a) to clear within 15 days by cutting down or removing any trees, jungle, fences, standing crops or other material obstructions, the boundaries or other lines, the clearance of which may be necessary for the purposes of survey; and

(b) to provide labour at such time and for such periods as may from time to time be required by furnishing flag holders and chainmen; and

33/3932/82/J

(c) to provide suitable survey marks and otherwise to give such assistance in the survey as may be demanded under the said Act or Rules made thereunder.

If any person fails to comply with these requisitions under clauses (a) to (c) mentioned above, the work will be got done by employing hired labour and the cost thereof will be recovered from the defaulters as provided in the Act and rules made thereunder.

(1)

L. A. 1. 682/82. *1st November 1982.*

DETAILS OF LANDS

District—Alleppey

Taluk—Mavelikara *Village*—Pandalam thekkekara

Sy. Nos. 79, 78, 80, 81, 76.

(2)

L. A. 1. 1032/82. *1st November 1982.*

DETAILS OF LANDS

District—Alleppey

Taluk—Mavelikara *Village*—Pandalam thekkekara

Sy. Nos.—75, 76, 81, 74, 83, 95

(3)

L. A. 1. 683/82. *1st November 1982.*

DETAILS OF LANDS

District—Quilon

Taluk—Pathanamthitta *Village*—Vallicode

Sy. Nos. 9, 8, 37.

(Sd.)
Special Tahsildar (LA)
K.I.P.No. IV.

Adoor.

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GOVERNMENT OF KERALA

Health (G) Department

NOTIFICATIONS

No. 39347/G3/82/HD, *Dated, Trivandrum*, 19*th October*, 1982.

(i)

S. R. O. No. 1312/82.—In exercise of the powers conferred by sub-section (1) of section 9 of the Prevention of Food Adulteration Act, 1954 (Central Act 37 of 1954) and in supersession of Notification—(i) No. 9475/G3/82/HD dated the 15th March, 1982, published as S. R. O. No. 382/82 in the Kerala Gazette Extraordinary No. 207 dated the 17th March, 1982, the Government of Kerala hereby appoint Sri K.V. Raghavan, Health Inspector, Grade I, Calicut Corporation, to be Food Inspector for the purposes of the said Act and assign to him the area within the Calicut Corporation as the local area within which he shall exercise his powers under the said Act.

(ii)

S. R. O. No. 1313/82.—In exercise of the powers conferred by sub-section (1) of section 20 of the Prevention of Food Adulteration Act, 1954, (Central Act 37 of 1954), and in supersession of Notification—(ii) No. 9475/G3/82/HD dated the 15th March, 1982, published as S. R.O. No. 383/82 in the Kerala Gazette Extraordinary No. 207 dated the 17th March, 1982, the Government

of Kerala hereby authorise Sri K. V. Raghavan, appointed as Food Inspector under sub-section (1) of section 9 of the said Act in Calicut Corporation to institute prosecutions for offences under the said Act within the local area under his jurisdiction.

By order of the Governor,
N. KRISHNAN NAIR,
Special Secretary.

Explanatory Note

(This does not form part of the notification but is intended to indicate its general purport.)

Sri K. V. Raghavan, Health Inspector, Grade I has been appointed Food Inspector, Calicut Corporation. It is necessary to appoint him as Food Inspector under the Prevention of Food Adulteration Act to authorise him to institute prosecutions for offences under the Act. The notifications are for the above purpose.

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Vol. XXVII] Trivandrum, Tuesday, 2nd November 1982 / 11th Karthika 1904 (Saka) [No. 794

PROCEEDINGS OF THE CHIEF ENGINEER, IRRIGATION, TRIVANDRUM.

Order No. IG1-36896/82. *11th October* 1982.

Read: Order No. IG1-8598/81 dated 4-12-1981 of Chief Engineer, Irrigation published as Vol. XXVI dated 8-12-1981 as Gazette Extraordinary.

As per item 4 to this Office order No. IG1-8598/81 dated 4-12-1981 timings were allotted to the State Water Transport Department to conduct service in Ernakulam-Mulavukad route.

It is a long standing request of the passengers of Ernakulam-Mulavukad route and the residents of surrounding places of Mulavukad to operate additional services in addition to the present services.

Hence under Rule 39 of the Cochin Public Canals & Back Waters Navigation Act I of 1092 the following additional timings are also allotted to the S. W. T. Department to conduct service in the Ernakulam-Mulavukad Boat route.

Route.—Ernakulam-Mulavukad.

Running time.—45 minutes.

ADDITIONAL TIMINGS ALLOTTED

Departure from Mulavukadu	*Departure from High Court*	*Departure from Ernakulam*
06.30	07.00	..
07.35	08.10	..
09.00	..	9.45
10.30	..	11.15
12.15	..	13.35
14.35	..	15.20
16.20	17.00	..
18.00	..	19.00
20.00	..	21.00

(Sd.)

Trivandrum. *Chief Engineer (I).*

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1982

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DATA ENTERED

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1961-ലെ കേരള സർവ്വെയും അതിർത്തിയും സംബന്ധിച്ച ആക്റ്റിലെ 6-ാം വകുപ്പുപ്രകാരമുള്ള പരസ്യം

താഴെ പറയുന്ന താലൂക്കിൽ താഴെ പറയുന്ന വില്ലേജിൽ താഴെ പറയുന്ന സർവ്വെ നമ്പരുകളിൽപ്പെടുന്ന ഭൂമികളുടെ സർവ്വെ നടത്തണമെന്നു ഗവൺമെൻറ് നിർദ്ദേശിച്ചിരിക്കുകയാൽ താഴെ പറയുന്ന വില്ലേജിൽ സർവ്വെ പ്രവർത്തനങ്ങൾ വേഗംതന്നെ ആരംഭിക്കുന്നതാണെന്നും താഴെ പറയുന്ന വില്ലേജിലെ താഴെ പറയുന്ന സർവ്വെ നമ്പരുകൾ അതിർത്തി തിരിച്ച് സർവ്വെ ചെയ്യുന്നതാണെന്നും 1961-ലെ കേരള സർവ്വെയും അതിർത്തിയും സംബന്ധിച്ച ആക്റ്റിലെ 6(1)-ാം വകുപ്പുപ്രകാരം ഇതിനാൽ പരസ്യം ചെയ്യുന്നു. താഴെ പറയുന്ന ഭൂമികളുടെ ഉള്ളിലോ അഥവാ അവയോടു ചേർന്നോ സ്ഥിതിചെയ്യുന്ന രജിസ്റ്റർ ചെയ്ത ഭൂമികളിൽ അവകാശമുണ്ടെന്ന് തീർച്ച ചെയ്യുന്ന ഏതൊരാളെയും നേരിട്ടോ ഏജൻറുമുഖേനയോ സ്ഥലത്തു ജോലി ചെയ്യുന്ന സർവ്വെയരുടെ അടുത്തു ഹാജരാകുന്നതിനും അതിരുകൾ കാണിച്ചു കൊടുക്കുന്നതിനും അതോടു ബന്ധപ്പെട്ട വിവരങ്ങൾ നൽകുന്നതിനുംവേണ്ടി അതാതു സമയം ആവശ്യപ്പെടുമ്പോൾ ഹാജരാകുന്നതിനുംവേണ്ടി ഇതിനാൽ ക്ഷണിച്ചുകൊള്ളുന്നു.

പ്രസ്തുത ആക്റ്റിലെ 6 (2) എന്ന വകുപ്പുപ്രകാരം ഈ പരസ്യം താഴെ പറയുന്ന ഭൂമികളിൽ അവകാശബന്ധമുള്ള ഏതൊരാൾക്കുമുള്ള സാധുവായ നോട്ടീസായി കണക്കാക്കപ്പെടുന്നതാണ്.

പ്രസ്തുത ആക്ടിലെ 6 (3)-ാം വകുപ്പ് പ്രകാരം രജിസ്റ്റർ ചെയ്ത എല്ലാ കൈവശക്കാരും:—

(എ) സർവ്വെ ചെയ്യുന്നതിനുവേണ്ടി നിർമ്മാർജ്ജനം ചെയ്യേണ്ട ആവശ്യമുണ്ടായേക്കാവുന്ന വല്ല മരങ്ങളോ കുററിക്കാടുകളോ, വേലികളോ നിൽക്കുന്ന വിളകളോ അഥവാ സാരവത്തായ മററ് തടസ്സങ്ങളോ 15 ദിവസത്തിനകം

(ബി) ചെയിൻ പിടിക്കുന്നവരെയും ചെയിൻമാൻമാരെയും നിയോഗിച്ച് അതതുസമയം ആവശ്യമായേക്കാവുന്ന സമയത്തേക്കും കാലത്തേക്കും തൊഴിലാളികളെ ഏർപ്പെടുത്തണമെന്നും,

(സി) അനുയോജ്യമായ സർവ്വെ അടയാളങ്ങൾ നൽകണമെന്നും മററു പ്രകാരത്തിൽ പ്രസ്തുത ആക്ററാ അതുപ്രകാരമുണ്ടാക്കിയിട്ടുള്ള, ചട്ടങ്ങളോ അനുസരിച്ച് ആവശ്യപ്പെട്ടേക്കാവുന്ന സഹായങ്ങൾ സർവ്വേയർ നൽകണമെന്നും ഇതിനാൽ ആവശ്യപ്പെടുന്നു.

മേൽപ്പറഞ്ഞ (എ) മുതൽ (സി) വരെയുള്ള ഖണ്ഡങ്ങൾ പ്രകാരമുള്ള ഉ അഭ്യർത്ഥനകൾ അനുസരിക്കുന്നതിൽ ആരെങ്കിലും വീഴ്ച വരുത്തുകയാണെങ്കിൽ ജോലി കൂലിപ്പണിക്കാരെക്കൊണ്ട് ചെയ്യിക്കുന്നതും ആയതിന്റെ ചെലവ് ആക്ററിലും അതുപ്രകാരമുണ്ടാക്കിയിട്ടുള്ള ചട്ടങ്ങളിലും വ്യവസ്ഥ ചെയ്തിട്ടുള്ളതുപോലെ വീഴ്ചവരുത്തിയിട്ടുള്ളവരിൽ നിന്നും വസൂലാക്കുന്നതുമാണ്.

(1)

No. B2-660/82. 1982 ഒക്ടോബർ 25

ഭൂമിയുടെ വിശദവിവരങ്ങൾ

ജില്ല—തൃശ്ശൂർ.

താലൂക്ക്—തൃശ്ശൂർ. വില്ലേജ്—ചിയ്യാരം

സർവ്വെനമ്പർ—662.

(2)

No. B1-677/82. 1982 ഒക്ടോബർ

ഭൂമിയുടെ വിശദവിവരങ്ങൾ

ജില്ല—തൃശ്ശൂർ.

താലൂക്ക് തൃശ്ശൂർ. വില്ലേജ്—വിയ്യൂർ

(ബ്ലോക്ക് നമ്പർ—261)

സർവ്വെനമ്പർ—225, 227, 228, 244 and 253.

(3)

No. B1-680/82. 1982 ഒക്ടോബർ 29.

ഭൂമിയുടെ വിശദവിവരങ്ങൾ

ജില്ല—തൃശ്ശൂർ.

താലൂക്ക്—മുകുന്ദപുരം. വില്ലേജ്—പടിഞ്ഞാറെ ചാലക്കുടി

(ബ്ലോക്ക് നമ്പർ—263)

സർവ്വെനമ്പർ—137/1, 142/4.

(4)

No. B1-681/82. 1982 ഒക്ടോബർ 29.

ഭൂമിയുടെ വിശദവിവരങ്ങൾ

ജില്ല—തൃശ്ശൂർ.

താലൂക്ക്—തൃശ്ശൂർ. വില്ലേജ്—പോട്ടോർ

(ബ്ലോക്ക് നമ്പർ—264)

സർവ്വെനമ്പർ—262/1, 262/2, 262/3, 262/4, 281, 282, 283.

Trichur-3. (Sd.)

Special Tahsildar (L. A.) Railways.

NOTIFICATION

UNDER SECTION 13 OF KERALA SURVEY AND BOUNDARIES ACT, 1961

No. B2-74/80.

29th October 1982

1. It is hereby notified under section 13 of the Kerala Survey and Boundaries Act, 1961 (Act 37 of 1961) that the survey of the undermentioned areas is now complete.

2. Unless the survey hereby notified is modified by a decree of a Civil Court under the provisions of section 14 of the said Act, the records of the survey shall be conclusive proof that the boundaries determined and recorded therein have been correctly determined and recorded.

PARTICULARS OF THE AREA

Taluk—Trichur.

Village—Ollur

Sy. Nos. completed:—909/2, 910/2.

Trichur.

(Sd.)
Special Tahsildar (L.A.), Railways and Land Acquisition Officer.

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GOVERNMENT OF KERALA

Transport, Fisheries and Ports (Transport B) Department

NOTIFICATION

No. 13186/TB2./82/TF&P. *Dated,Trivandrum 23rd October 1982.*

S. R. O. No. 1310/82—Whereas in exercise of the powers conferred by clause (1) of Article 258 of the constitution of India, the President has in Notification No.2/4/63/Judl. II dated 31-5-1963 entrusted the Government of Kerala with their consent, the functions of the Central Government under the Kerala Land Acquisition Act, 1961 (21 of 1962), in relation to the acquisition of lands for the purpose of the union in the State of Kerala ;

And, whereas, it appears to the Government of Kerala that the lands specified in the schedule below are needed or are likely to be needed for a public purpose, to wit for doubling rail track between Ghalakudy and Angamaly Railway Stations;

Now, therefore, notice to that effect is hereby given to all whom it may concern, in accordance with the provisions of subsection (1) of section 3 of the said Act.

Under subsection (4) of section 19 of the said Act, the Government direct that in view of the urgency of the case, the provisions of section 5 of the Act shall not apply to this case.

33/3933/V.

SCHEDULE

District —Trichur.

Taluk —Mukundapuram. Village—Padinjare Chalakudy.

(Block No. 247)

(The extent given is approximate)

Sl. No.	*Survey No.*		*Classification*	*Extent in Hectares*
1	209/1	Part	Wet	0.0180
2	209/2	,,	,,	0.0107
3	209/3	,,	,,	0.0160
4	211/1	,,	,,	0.0585
			Total	0.1032

Explanatory Note

(This is not part of the notification, but is intended to bring out the general purport).

President of India has in Notification No. 2/4/1963/Judl. II dated 31-5-1963 entrusted the Government of Kerala with their consent the powers to acquire lands for the use of Central Government in the State and it appears to the State Government that the lands mentioned in the schedule above is needed for a public purpose viz. for doubling of rail track between Chalakudy and Angamaly.

This notification is intended for the above purpose.

എസ്. ആർ. ഒ. നമ്പർ 1310/82.—ഇൻഡ്യൻ ഭരണഘടനയുടെ 258-ാം അനുച്ഛേദം (1)-ാം ഖണ്ഡംമൂലം നൽകപ്പെട്ട അധികാരങ്ങൾ വിനിയോഗിച്ച്, ഇൻഡ്യൻ രാഷ്ട്രപതി 1963 മെയ് 31-ാം തീയതിയിലെ 2/4/63/ജുഡീഷ്യൽ II എന്ന നമ്പർ വിജ്ഞാപന പ്രകാരം കേരള സംസ്ഥാനത്ത് യൂണിയന്റെ ആവശ്യങ്ങൾക്കായി ഭൂമി വിലയ്ക്കെടുക്കുന്നത് സംബന്ധിച്ച് 1961-ലെ കേരള സ്ഥലമെടുപ്പ് ആക്റ്റ് (1962 ലെ 21) അനുസരിച്ച് കേന്ദ്ര സർക്കാരിന്റെ ചുമതലകൾ, കേരള സർക്കാരിനെ അവരുടെ സമ്മതത്തോടുകൂടി ഭരമേല്പിച്ചിരിക്കുന്നതിനാലും;

താഴെ പട്ടികയിൽ പറഞ്ഞിട്ടുള്ള സ്ഥലങ്ങൾ, ഒരു പൊതു ആവശ്യത്തിനായി അതായത് ചാലക്കുടി അങ്കമാലി റയിൽവേസ്റ്റേഷനുകൾക്കിടയ്ക്ക് റയിൽ പാത ഇരട്ടിപ്പിക്കുന്നതിന് ആവശ്യമുണ്ടെന്നോ ആവശ്യമുണ്ടാകാനിടയുണ്ടെന്നോ കേരള സർക്കാരിന് ബോദ്ധ്യം വന്നിരിക്കുന്നതിനാലും;

ഇപ്പോൾ അതിനാൽ, പ്രസ്തുത ആക്റ്റ് 3-ാം വകുപ്പ് (1)-ാം ഉപവകുപ്പിലെ വ്യവസ്ഥകളനുസരിച്ച്, ബന്ധപ്പെട്ടഎല്ലാവർക്കും അതിനുള്ള നോട്ടീസ് ഇതിനാൽ നൽകുന്നു.

പ്രസ്തുത ആക്റ്റ് 19-ാം വകുപ്പ് (4)-ാം ഉപവകുപ്പു പ്രകാരം സംഗതിയുടെ അടിയന്തിര സ്വഭാവം പരിഗണിച്ച് പ്രസ്തുത ആക്ട് 5-ാം വകുപ്പിലെ വ്യവസ്ഥകൾ ഈ സംഗതിക്ക് ബാധകമാകുന്നതല്ലെന്ന് കേരള സർക്കാർ നിർദ്ദേശിക്കുന്നു.

പട്ടിക

ജില്ല—തൃശ്ശൂർ.

താലൂക്ക്—മുകുന്ദപുരം. വില്ലേജ്—പടിഞ്ഞാറെ ചാലക്കുടി.

(ബ്ലോക്ക് നമ്പർ-247)

(ഏകദേശവിസ്തീർണ്ണമാണ് കൊടുത്തിരിക്കുന്നത്.)

ക്രമനമ്പർ	സർവ്വെ നമ്പർ	വിവരണം	വിസ്തീർണ്ണം ഹെക്ടറിൽ
1	209/1 ഭാഗം	നിലം	0.0180
2	209/2 ,,	,,	0.0107
3	209/3 ,,	,,	0.0160
4	211/1 ,,	,,	0.0585
		ആകെ	0.1032

വിശദീകരണക്കുറിപ്പ്

(ഇത് വിജ്ഞാപനത്തിന്റെ ഭാഗമല്ല, എന്നാൽ അതിന്റെ പൊതു ഉദ്ദേശം വെളിപ്പെടുത്തുന്നതിനുദ്ദേശിച്ചുകൊണ്ടുള്ളതാണ്.)

രാഷ്ട്രപതി 31-5-1963-ലെ 2/4/63/ ജുഡീഷ്യൽ II എന്ന നമ്പർ വിജ്ഞാപനം മൂലം സംസ്ഥാനത്ത് കേന്ദ്ര സർക്കാരിന്റെ ആവശ്യത്തിലേക്ക് സ്ഥലം വിലയ്ക്കെടുക്കുന്നതിനുള്ള അധികാരം കേരള സർക്കാരിനെ അവരുടെ സമ്മതത്തോടുകൂടി ഭരമേൽപ്പിച്ചിട്ടുള്ളതും, മുകളിൽ പട്ടികയിൽ പറഞ്ഞിട്ടുള്ള സ്ഥലങ്ങൾ, ഒരു പൊതു ആവശ്യത്തിന്, അതായത് ചാലക്കുടിക്കും അങ്കമാലിക്കും ഇടയ്ക്ക് റയിൽപാത ഇരട്ടിപ്പിക്കുന്നതിന് ആവശ്യമാണെന്ന് സർക്കാരിന് ബോദ്ധ്യപ്പെട്ടിട്ടുള്ളതും ആകുന്നു.

മേൽപറഞ്ഞ ആവശ്യത്തിനുദ്ദേശിച്ചുകൊണ്ടുള്ളതാണ് ഈ വിജ്ഞാപനം.

By order of the Governor,
T. SANKARAN,
Additional Secretary to Government.

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